



Oifig an  
Office of the

**Stiúrthóra Ionchúiseamh Poiblí**  
**Director of Public Prosecutions**

**Annual Report 2008**

**This Report is also available in the Irish language**

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## Contents

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Foreword . . . . .	4
<b>1</b> The General Work of the Office . . . . .	7
<b>2</b> The Year in Review . . . . .	8
<b>3</b> Legal Developments 2008 . . . . .	17
<b>4</b> Prosecution Policy Unit . . . . .	24
<b>5</b> Freedom of Information. . . . .	27
<b>6</b> Statistics. . . . .	28
<b>7</b> Extract from Appropriation Account 2007 . . . . .	53
<b>8</b> Prompt Payment of Accounts Act, 1997. . . . .	54
<b>9</b> Outline of the Criminal Prosecution Process. . . . .	55
<b>10</b> Organisation Structure . . . . .	56
 <b>Appendix I</b> Policy Statement on the Giving of Reasons for Decisions . . . . .	 57
 <b>Appendix II</b> Annual Output Statement 2008 . . . . .	 58
 <b>Appendix III</b> Victims' Charter . . . . .	 61

## Foreword

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Once again it is my pleasure to introduce the Office's annual report.

The 2008 report is appearing somewhat later in the year than usual. This is due to the fact that we are now completing the introduction of a new case management system. Among other things this required a great deal of work to be done on the extraction of statistics from the new system and I was anxious to ensure that the statistics were as accurate as possible before issuing the report. I am happy to say that the new integrated case management system is now virtually complete and has come in on budget, even though later than had originally been planned. This will make a significant difference to the way in which the Office does its work, because for the first time we will have a case management system on which all aspects of work on a criminal prosecution file can be accessed and dealt with electronically during each stage of the prosecution process.

As usual the heart of the annual report is the statistical information which it contains. The year 2008 saw a continuation in the rise of the number of files dealt with by the Office.

The most significant other change in the professional work of the Office during 2008 was the introduction of a pilot project involving the giving of reasons for decisions not to prosecute in cases where there has been a fatality which took place on or after 22 October 2008. At the time of writing this pilot project has been operating for exactly one year. However, because of the time lag between the commission of an offence, its investigation, the submission of a file to my Office, and the eventual decision whether to prosecute, it is only now that we are beginning to receive requests for reasons in cases where there has been a decision not to prosecute. So far requests have been received in only a small number of cases. It had originally been



intended, at the time I announced the pilot project, that it would continue in existence until at least 1 January 2010. At the time of writing it seems likely that the pilot may have to be extended beyond this as it is unlikely that there will be sufficient material to make a full evaluation of the pilot by that date. If that is the case, it would be my intention simply to continue the pilot scheme for a longer period before publishing an evaluation. Reaction to date to the introduction of the scheme has been overwhelmingly positive. Assuming the pilot project is successful, the next step will be to examine the feasibility of extending the scheme to other categories of offence.

It is impossible to write an introduction to the 2008 annual report without mentioning the changed economic circumstances in which Ireland and all of the institutions of the State find themselves. During 2009 my Office has managed to make significant savings in its administration budget. However, this budget accounts only for a very small portion of the expenditure of the Office. The Office of the DPP differs from most Government Offices and Departments in that it has only one significant function, that is

to say, the prosecution of crime. It does not have discretionary programmes which it can decide to discontinue. Furthermore, the Office is unusual in that a very large amount of its work is outsourced either to the private bar or to the local state solicitors who work on contract for the Office. The payment of counsel's fees amounts to approximately one third of the Office's budget. During 2009 substantial cuts in counsels' fees, to the order of 8%, were made in addition to a decision in September 2008 not to pay an increase of 2.5% which would otherwise have been due. Additionally, a number of other payments have been discontinued. In overall terms the scale of the cuts imposed on the Bar as a result of this is probably of the order of 14%. While this is a small hardship in comparison to the many people in our society who have lost their jobs or their life savings, it is only fair to acknowledge the spirit in which these cuts have been accepted by the barristers who appear in court on behalf of the Office as part of the price which has to be paid to restore the country to economic health.

I would also like to acknowledge the dedication which my own staff in the Office have shown during the past 12 months in continuing to provide a first class service despite the imposition of pay cuts in the guise of a pension levy, and despite the fact that reductions in staff have effectively placed a heavier burden on every member of the Office.

The years ahead will be difficult ones for this Office along with the country as a whole. However, I welcome the fact that there appears to be a real awareness of the essential nature of the work done by this Office and of the relatively limited scope for cutting the expenditure of the Office without significantly reducing the service which it provides. There appears to be an understanding that a reduction in the services we provide is not a viable option. There is also an understanding that most of the expenditure of the Office is essentially demand led in the sense that we do not have control ourselves over the level of crime or the number of prosecutions we must bring.

However, my Office has played its part in putting forward suggestions to try to limit the exposure of the tax payer to unnecessary expenditure within the criminal justice system as a whole.

At the time of writing it seems very uncertain when the Office will find itself located in one single building. The existing location in two separate premises is a real source of waste and inefficiency and limits our ability to reorganise its work in ways which would make for greater efficiencies. We have been promised a single location for all our staff since the amalgamation eight years ago of the DPP's Office with the criminal division of the Chief State Solicitors Office, but unfortunately this has failed to materialise. Notwithstanding the severe limitations which now exist in the Government's capital budget I think it is necessary that renewed efforts should be made to try to locate all our staff in a single location.

Finally, I want to thank the members of my own staff, the local state solicitors, and all of the individuals and organisations that work closely with us, for their dedication and hard work during 2008 and since then in circumstances which are more difficult than any we have known for many years. I believe that the spirit of cooperation and solidarity which the members of this Office and its principal stakeholders have shown in the face of difficult circumstances is a good omen for the future of the Irish prosecution service.



James Hamilton  
Director of Public Prosecutions  
November 2009

## MISSION STATEMENT

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To provide on behalf of the People of  
Ireland a prosecution service that is  
independent, fair and effective

# 1 THE GENERAL WORK OF THE OFFICE

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**1.1** The fundamental function of the Director of Public Prosecutions is the direction and supervision of public prosecutions and related criminal matters.

**1.2** The majority of cases dealt with by the Office of the Director of Public Prosecutions are received from the Garda Síochána, the primary national investigating agency. However, some cases are also referred to the Office by specialised investigative agencies including the Revenue Commissioners, Government Departments, the Health & Safety Authority, the Competition Authority, the Environmental Protection Agency and local authorities.

**1.3** The Office of the Director of Public Prosecutions has three divisions:

The Directing Division determines, following an examination of an investigation file, whether there should be a prosecution or whether a prosecution commenced by the Garda Síochána should be maintained. The direction which issues indicates the charges, if any, to be brought before the courts. In some cases further information and investigation may be required before a decision can be made. To prosecute there must be a *prima facie* case - evidence which could, though not necessarily would, lead a court or a jury to decide, beyond reasonable doubt, that the person is guilty of the offence.

The Solicitors Division, headed by the Chief Prosecution Solicitor, provides a solicitor service to the Director in the preparation and presentation of cases in the Dublin District and Circuit Courts, the Central Criminal Court and Special Criminal Court, the Court of Criminal Appeal and the High and Supreme Courts. Outside of the Dublin area 32 local state

solicitors, engaged on a contract basis, provide a solicitor service in the Circuit Court and in some District Court matters in their respective local areas.

The Administration Division provides organisational, infrastructural, administrative and information services required by the Office and also provides support to both the Directing and Solicitors Divisions.

# 2 THE YEAR IN REVIEW



The Director photographed with guest speakers at the conference held in Dublin Castle on 22 November 2008 - 'Children in an Adult World II: The Voice of the Child - Lost in Translation?'. L-R: Joyce Plotnikoff, Independent Consultant, UK; James Hamilton, Director of Public Prosecutions; Rhonda Turner, Principal Psychologist from St. Louise's Unit, Our Lady's Children's Hospital; Úna Ní Raifeartaigh BL, Law Library; and Barry Andrews TD, Minister of State for Children & Youth Affairs.

**2.1** The year 2008 was the second year of the implementation of the three year strategic plan for the Office of the Director of Public Prosecutions. In the strategic plan the Office identified the key priorities and challenges for the period 2007 - 2009. This chapter outlines the progress made and the developments that took place during 2008 in meeting those challenges and maintaining standards in prosecutions. It also sets out how the continued implementation of the civil service modernisation agenda underpins the provision by this Office of a quality prosecution service.

## Public Expectations of Service

**2.2** Since the establishment of the Office of the Director of Public Prosecutions in 1975 it has continued the long standing policy in Ireland not to give reasons for decisions not to bring or maintain a prosecution, other than to the

Garda Síochána. This policy at times has led to controversy, particularly for some victims of crime who felt aggrieved because they were not told the reasons for not taking a prosecution.

**2.3** In the light of the movement towards greater accountability in public administration, the Office of the Director of Public Prosecutions published a 'Discussion Paper on Prosecution Policy on the Giving of Reasons for Decisions' in January 2008. The paper was published as part of a public consultation process to stimulate debate and to seek submissions from a broad spectrum of citizens and members of the public generally who had an interest in the desirability or otherwise of changing the policy of this Office not to give reasons for prosecution decisions. After publication of the paper, the Office hosted a number of seminars, involving both staff and interested parties, including



members of the legal profession, Gardaí and representatives of victims organisations. The seminars provided a forum for all parties to discuss the key issues involved in any change in policy.

- 2.4** Following this extensive consultation process, the Director announced on the 22 October 2008 a change in the policy on giving reasons for decisions. A copy of the policy document is attached at Appendix I of this report.
- 2.5** At the same time, the Office published a report giving an overview of the public and internal consultation processes and an analysis of submissions received and views expressed - all of which critically informed and influenced the decision to alter the existing policy on the giving of reasons.
- 2.6** The policy, introduced on a pilot basis, applies only to alleged offences where a death has occurred on or after 22 October 2008. In these cases reasons for decisions not to prosecute or to discontinue a prosecution will be given in writing, at the request of the deceased's family (or household or their legal or medical adviser or social worker acting on their behalf). Reasons will be given only in circumstances where it is possible to do so without creating an injustice.
- 2.7** Given that the policy applied from 22 October 2008, it was not anticipated that any such requests would be received before the end of 2008 because of the time element involved in investigation, submission of such files to the DPP, and the subsequent decision making process. Developments in relation to the pilot policy will be reported on in the Annual Report for 2009.
- 2.8** During 2008 the Office of the Director of Public Prosecutions continued to promote the availability of services through the Irish language in fulfilment of its obligations under the Official Languages Act 2003. All publications produced by the Office are bilingual. The Office website is fully bilingual. Any correspondence received in Irish is responded to in Irish and the Office



Jim McHugh, Chairman of the Commission for the Support of Victims of Crime with Donal Egan, Victim Support, photographed at the discussion seminar on the Prosecution Policy on the Giving of Reasons for Decisions held in April 2008.

has a dedicated e-mail address for Irish correspondence ([gaeilge@dppireland.ie](mailto:gaeilge@dppireland.ie)). The Office also handles a small number of cases in the Irish language in both the Solicitors and Directing Divisions.

- 2.9** The first Irish Language Scheme 2005 - 2008 for the Office came to an end on 30 June 2008. In August 2008 the Director submitted the second Irish Language Scheme 2008 - 2011 to the Minister for Community, Rural and Gaeltacht Affairs for approval. The second scheme builds on progress made by the Office in the provision of services through Irish during the lifetime of the first Scheme.
- 2.10** In addition to Irish language publications, and in recognition of the large immigrant community now living in Ireland, the Office provides information booklets on its website in nine foreign languages: Arabic, French, Latvian, Lithuanian, Mandarin, Polish, Romanian, Russian and Spanish.

### Strategic Management

- 2.11** A range of strategic management initiatives were implemented during 2008 which assisted in enhancing the quality and efficiency of the services provided by the Office.



Photographed at the signing of a protocol between the Office of the DPP and the Garda Síochána Ombudsman Commission on 16 April 2008 (L-R): James Hamilton, Director of Public Prosecutions; Barry Donoghue, Deputy Director of Public Prosecutions; Carmel Foley, Commissioner, Garda Síochána Ombudsman Commission; the late Mr. Justice Kevin Haugh, Chairman, Garda Síochána Ombudsman Commission.

**2.12** The most significant development in terms of managing the work of the Office was the launch in October 2008 of the first phase of the new Case, Document Management and File Tracking System for the Office. The system provides a single point of access for staff across all divisions of the Office.

**2.13** Prior to implementation of the new system the Office relied on a number of separate databases, each of which operated independently of the other. Under the new system a prosecution file will be given a single reference number which it will retain as it progresses through the different sections of the Office.

**2.14** Staff in both the Solicitors and Directing Divisions of the Office can now access prosecution files electronically which will result in a speedy and more efficient service for staff.

The system will also provide managers with an integrated electronic system to manage legal work across the whole organisation.

**2.15** The second phase of the system went live in May 2009 and involves integrating the work of Judicial Review, European Arrest Warrant, Court of Criminal Appeal, Asset Seizing, Costs & Counsel Fees sections into the new system.

**2.16** During the course of the year work commenced on implementing and testing the Fee Capture Module of the new Case, Document Management and File Tracking system. This will replace an existing stand-alone system that has reached the end of its useful life. The new system will allow legal costs incurred to be tracked to individual cases. It will also improve efficiency and accuracy by eliminating the need to manually record and the re-enter summary details of up to 7,000 court appearances per year. The new system will integrate seamlessly

with the Office's accounting systems. Testing and preparatory work was also undertaken in 2008 for an upgrade of that accounting system.

- 2.17** The Office continues to progress towards making payment by Electronic Funds Transfer the norm. In 2008 over 80% of payments to our regular suppliers were made by electronic means. This has greatly improved the efficiency and security of payments.
- 2.18** The Office presented its Vote Output Statement for 2008 to the Dáil Committee on Finance and the Public Service. The statement is a key element of the Budget and Estimates reform measures announced by the Minister for Finance in 2006. It is designed to match key outputs and strategic impacts to financial and staffing resources for the year. A copy of the Output Statement is attached at Appendix II of this report.
- 2.19** Staff selection and recruitment was a significant focus for the Human Resources Unit in 2008. Recruitment to the balance of a number of additional posts sanctioned for the Office during 2007 was completed in early 2008, with the remainder being accounted for by staff turnover during the year.
- 2.20** The integrated model of the Performance Management and Development System (PMDS) was fully operational during 2008. The system integrates assessment processes for increment approval, higher scales assignment and promotion. It provided both managers and staff the opportunity to evaluate performance against agreed targets and ensured staff development through mentoring and structured training programmes.

## Legal Environment

- 2.21** The establishment of a dedicated Prosecution Policy Unit within the Office at the beginning of 2008 was a welcome development. The unit was set up to concentrate on long-term policy questions; to manage responses to international and national criminal justice policy proposals; to address such matters as guidelines and

standards for prosecutions; and to develop and implement proposals to assist in ensuring a consistency of approach in prosecutorial decisions as well as ensuring a consistency of approach by barristers and solicitors presenting cases on behalf of the Office. The Head of the Policy Unit was appointed at the end of 2007 and the Unit commenced work in January 2008. During 2008 a Deputy Head and Legal Researcher were recruited to the Unit. The work of the unit since its establishment and the specific policy projects undertaken is outlined in detail in Chapter 4 of this report.

- 2.22** In order to maintain standards in public prosecutions the Office must ensure that professional staff have a thorough understanding of the law and the context of its operation. The Legal Training Steering Group for the Office oversees legal development training for professional staff. Of the €485,000 (3.74% of payroll costs) invested in staff training and development in 2008, €193,000 was dedicated to legal-specific training. This included Advanced Advocacy Courses for solicitors in our Solicitors Division who represent the Director in the criminal courts in Dublin. It also included attendance at criminal law conferences and seminars for legal staff who must keep abreast of developments in an ever-changing legal environment, both at national and international level.



Solicitors from the Solicitors' Division participating in a mock trial during an advocacy training session in August 2008.

**2.23** The Library and Research Unit continued during 2008 to deliver a quality information service in a timely, effective and efficient manner, tailored to meet the information and know-how needs of the Office. The Unit provided up-to-date legal information through the library management system, its digital archive and a comprehensive range of electronic resources, while maintaining and adding to the physical collection of journals and books. Staff also benefited from the provision of both a reactive research service as well as reports on important decisions handed down by the courts. Greater access to library resources was also provided to local state solicitors on a national level.

## Governance

**2.24** The Office continues to provide information on the work of the Office through publication of Annual Reports, Strategy Statements, Guidelines for Prosecutors and information booklets. The Office website also provides a range of information to the public generally.

**2.25** The Office has in place an Audit Committee comprising key staff from the Office and a number of external members, one of whom acts as chairperson. The Committee is tasked with reviewing the control environment and governance procedures within the Office. The Office recognises that it is essential to have an element of external review in relation to the systems it operates in order to have public confidence in the reliability of the services provided by the Office. Internal audit is a key element of the Office's systems of internal control.

**2.26** The Audit Committee held four meetings during the year in review and produced reports on Payroll and also Procurement of Barristers Services. One of the meetings was attended by two representatives from the Comptroller & Auditor General's Office. Both reports were presented to the Comptroller and Auditor General. Risk Management updates are also provided to the committee at each meeting.



L-R: Sinéad O'Gorman, Librarian; Séamus Cassidy, Judicial Review Section; Claire Loftus, Chief Prosecution Solicitor; James Hamilton, Director of Public Prosecutions; Claire Galligan, District Court Section; Barry Donoghue, Deputy Director of Public Prosecutions, pictured at the Annual State Solicitors' Seminar in January 2008.



**2.27** In June 2008 the Office submitted a report to the Civil Service Performance Verification Group outlining the progress made by the Office in delivering on our commitments under the social partnership agreement Towards 2016.

**2.28** The three year Irish Language Scheme 2005 - 2008 for the Office under the Official Languages Act 2003 came to an end on 30 June 2008. An evaluation of our compliance with implementation of the Scheme over the three year period was carried out by An Comisinéir Teanga and a report submitted to the Director in September 2008. The report concluded as follows:

"It is evident from the information provided to us that the Office of the Director of Public Prosecutions is engaged in beneficial on-going work as regards the implementation of the language scheme. Recognition must be given to the Irish Language protocol that is being implemented in the Office as well as the role of the Irish Language Officer. There are some few commitments that the Office has not implemented and as for the ones that have not been fully implemented assurances were given that this would be done within a short period of time. There is every indication that the Communications and Development Unit is engaged in an active monitoring and implementation role regarding the implementation of the scheme."

### Interaction with other agencies

**2.29** Interaction with other agencies in the criminal justice system is a key element of the work of the Office of the Director of Public Prosecutions. It is considered essential that the Office continues to develop initiatives to improve service to particular stakeholder groups.

**2.30** As a result of ongoing consultations between this Office and the Garda Síochána Ombudsman Commission, a protocol was signed by the Director and the Chairperson of the Commission on 16 April 2008. Under the Garda Síochána Act 2005 if a complaint is made to the Garda Síochána Ombudsman



Commissioner Fachtna Murphy, An Garda Síochána pictured with Paul Anthony McDermott BL, Law Library at the 9th Annual National Prosecutors' Conference in May 2008.

Commission concerning the conduct of a member of the Garda Síochána, the member may not be charged with an offence relating to that conduct except by or with the consent of the DPP. The protocol sets out the responsibilities of both investigator and prosecutor and will serve to streamline the delivery of service between both organisations.

**2.31** In January 2008 this Office hosted the Annual State Solicitors' Seminar in Dublin Castle. This was the first seminar to take place since the transfer of responsibility for the State Solicitor Service from the Attorney General to the Director in May 2007. The seminar provided a timely opportunity for this Office to facilitate presentations on issues of particular interest to state solicitors. Presentations were given by staff from this Office and included practical issues concerning judicial review proceedings; disclosure; Irish law on the web; recent legal developments; and section 49 Road Traffic Act prosecutions. The seminar also provided a forum for staff in this Office to meet with members of the state solicitor service from around the country.

**2.32** This Office hosted the 9th Annual National Prosecutors' Conference on 24 May 2008. There were 240 delegates in attendance at the conference in Dublin Castle including prosecuting counsel; local state solicitors; members of the judiciary; members of An Garda Síochána; representatives from

specialised investigation agencies; staff from this Office; together with others involved in the criminal justice system. The conference focused on a number of areas of topical interest. These included Undercover Investigations & Human Rights (Paul Anthony McDermott, BL); Issues in DNA Profiling (Dr. Maureen Smyth, Forensic Science Laboratory); Reviewing Prosecution Decisions (Mícheál P. O'Higgins, BL); and Sentencing & the Prosecutor (Tom O'Malley, BL). The conference provided an invaluable opportunity for those involved in the criminal justice system to meet to discuss current legal developments and issues of mutual interest.

- 2.33** On 22 November 2008 the Office hosted a conference in association with St. Clare's Unit, Children's University Hospital, Temple Street and St. Louise's Unit, Our Lady's Hospital for Sick Children, Crumlin. The theme of the conference was *Children in an Adult World II: The Voice of the Child - Lost in Translation?* This was the second joint conference - the first took place in November 2004. This follow-up conference reviewed what has happened since

2004 and looked at possible further measures and improvements that may be required within the criminal justice system so as to improve the outcome for children and their families. The conference brought together legal, medical and other professionals in the area of child protection.

- 2.34** The conference was launched by Barry Andrews TD, Minister of State for Children & Youth Affairs and chaired by Mr Justice John Gillen from Northern Ireland. Derek Ogg QC, Senior Advocate Depute in the Scottish Crown Office, gave the keynote address. Úna Ní Raifeartaigh BL, Law Library and Rhonda Turner, Principal Psychologist from St. Louise's Unit, gave a joint presentation on the issue of child victims in the criminal justice system, from both their perspectives. Joyce Plotnikoff, an independent consultant from the UK, spoke of the use of intermediaries in children's evidence. Dr. Teresa Burke, Senior Lecturer at the UCD School of Psychology, gave a presentation on eliciting best evidence from experts and the Honourable Mrs. Justice Catherine McGuinness, President



Panel of speakers at the open forum session of the 'Children in an Adult World II: The Voice of the Child - Lost in Translation?' conference held in Dublin Castle on 22 November 2008.

of the Law Reform Commission, spoke of the place of victim impact evidence in the trial process.

- 2.35** It was evident that there is keen interest in this area among both healthcare and legal professionals and there were many thought-provoking questions and observations from participants during the question and answer session. The Office will continue to liaise with the Hospital Units, Gardaí and other interested parties on this issue.
- 2.36** The majority of prosecution files received in the Office of the Director of Public Prosecutions are submitted by members of An Garda Síochána. It is essential therefore that the Gardaí are kept informed of and made aware of legal developments in relation to the prosecution of criminal offences. This Office and An Garda Síochána collaborate closely in the area of legal developments and during the period under review we facilitated training sessions for members of An Garda Síochána of various ranks. The sessions focused on Court Procedure, Fraud and Asset Seizing.
- 2.37** The Office participates in the training of trainee solicitors and during 2008 members of staff provided training to trainee solicitors on the professional practice courses in the Law Society on areas including Criminal Advocacy Skills, Appeals and Judicial Review. We also hosted internships for law students, providing an opportunity for them to experience the law in action and to gain a unique insight into the workings of the Office. During 2008 the Office facilitated students from the National University of Ireland, Galway and University College Cork.
- 2.38** The Office continues to participate in and contribute to various inter-agency groups including: The Criminal Law Advisory Committee; the DPP Garda Liaison Group; the Advisory Group on Crime and Criminal Justice Statistics; the Video Interviewing Child Witnesses Implementation Group; various Courts Service User Groups; the Interagency Group on Restorative Justice; the Intergovernmental Support for Victims of Crime Project Advisory Group; the Criminal Justice Act Steering Group; and the Criminal Courts of Justice User Co-ordination Group.
- 2.39** During the year under review the Office contributed to the development of criminal law at an international level and participated in a number of initiatives involving international organisations. We also continued to contribute to the work of international bodies and organisations including EUROJUST; GRECO; OLAF; Eurojustice; the International Association of Prosecutors; and the International Bar Association.
- 2.40** In February and April 2008 respectively, the Director prepared opinions for the Venice Commission and the Constitutional Justice Division of the Council of Europe on three draft laws concerning the judicial system in Serbia and subsequently an opinion on the draft law on the Public Prosecution Service of Moldova.
- 2.41** The Director was invited to participate in the first roundtable discussion of the Expert Group meeting of the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime (UNODC). This expert group of judges and prosecutors met to establish a draft manual of good practice in relation to terrorist cases and to collate a digest of judicial judgments in relation to this area of law. The work on this is due to be completed in 2009.
- 2.42** In association with the Public Prosecution Service for Northern Ireland this Office submitted an application for funding to the European Commission to jointly host a conference on Fraud, Corruption and European Union Financial Interests. The application was successful and grant approval was confirmed by OLAF (European Anti-Fraud Office) in July 2008. The conference took place in Dublin in March 2009 and was attended by representatives from 25 European countries. It identified areas of common concern to the participants in the fight against transnational fraud and facilitated exchanges of information and experience in areas of best practice.



Members of the Association of Police Prosecutors in Norway, pictured with the Director (first on left) and Peter McCormick, Professional Officer, Directing Division (first on right) during their visit to the Office of the Director of Public Prosecutions in early December 2008.

**2.43** A representative from this Office assisted the Senior Officials' Compliance Committee in its preparation for the OECD (Organisation for Economic Co-operation and Development) examination of Ireland's structures on corruption. Representatives from the OECD, together with examiners from Estonia and New Zealand, undertook a site visit to Ireland in June 2008. This Office was also represented on an OECD working group in Paris in June 2008 to discuss corruption on a global scale.

**2.44** The Office of the DPP was asked to provide a representative to participate at the plenary sitting of GRECO (Council of Europe Group of States Against Corruption) to assess Serbia's compliance in relation to the 1st and 2nd reports on corruption in Serbia. The sitting took place in June 2008.

**2.45** This Office also participated in the organisation of the 22nd International Conference of the International Society for the Reform of Criminal Law (ISRCL). This is an international non-governmental association of judges, legislators, lawyers, academics and governmental officials who have come together to work actively on

the administration of criminal justice both in their own jurisdiction and internationally. The conference theme was Codifying the Criminal Law: Modern Initiatives. The conference took place in Dublin Castle in July 2008 and was attended by over 200 delegates from around the world.

**2.46** Eight representatives from the Prosecutor General's Office of the Republic of Moldova, together with three representatives from the Council of Europe, undertook a study visit to the Office of the DPP in June 2008 which was organised by the Council of Europe in co-operation with this Office and supported by the European Commission.

**2.47** Members of the Association of Police Prosecutors in Norway visited the Office in December 2008. The purpose of their visit was to learn about the fight against crime in Ireland and to understand how it can be related to Norwegian processes. Members of staff of this Office facilitated presentations on the work of the Office and its role in the Irish Criminal Justice System.



# 3 LEGAL DEVELOPMENTS 2008

**3.1** The purpose of this chapter is to give a brief review of some of the more important or interesting decisions and developments in the area of criminal law in 2008.

**3.2** As in previous years, the cases are chosen to give an indication of the type of legal issues which arise in the area of criminal law. This chapter is not intended to give a comprehensive review of all developments in criminal law during the year.

## REVIEW OF DECISION TO PROSECUTE

**3.3** As with all stages of the criminal process, the decision to prosecute must be made with respect for the general constitutional requirements of fair procedures. This was determined by the Supreme Court in the case of *Eviston v. Director of Public Prosecutions* [2002] 3 IR 260. The Court also upheld the prerogative of the Director of Public Prosecutions to reverse a decision. This issue arose again in the following two cases:

**3.4** In *Carlin v. Director of Public Prosecutions* [2008] IEHC, the applicant had sought an order of prohibition of his trial on charges of assault. He claimed that he had previously been advised by the Gardaí that the Director of Public Prosecutions had decided not to continue with his prosecution. He argued that, as a matter of fair procedures, the Director of Public Prosecutions could not now go back on that decision. The High Court refused to prohibit his prosecution ruling that he had failed to establish that there was a real or serious risk that he could not obtain a fair trial.

**3.5** In *E.M. v. Director of Public Prosecutions* [2008] IEHC, the applicant was charged with two counts of sexual assault alleged to have

been committed between January 1994 and December 1997. He had been previously advised by the Gardaí in April 2006 that the Director of Public Prosecutions had decided not to prosecute him. This decision was reviewed and summonses containing the allegations were served on him in June 2006. He then sought the leave of the High Court to apply for an injunction restraining the Director of Public Prosecutions from continuing with the prosecution. The Director of Public Prosecutions submitted that the existence of the review procedure has been in the public domain since the publication of the Director of Public Prosecutions Annual Report 1998 under the heading “Review of Director of Public Prosecutions Decisions”. The High Court held that the decision in *Eviston* referred to above articulated the legal rule that a review by the Director of Public Prosecutions is possible. Therefore it is now a matter of law that such review may take place and so the applicant is deemed to have been aware of this fact. The Court also noted that in this case the applicant had made admissions of guilt.

## EVIDENCE

**3.6** The taking of forensic samples from a suspect and the use of certificates of analysis for drugs offences were examined in the following cases.

### DNA Evidence & the Forensic Evidence Act 1990

**3.7** In the *Director of Public Prosecutions v. Boyce* [2008] IESC 62, the Supreme Court held that the Forensic Evidence Act 1990 did not prohibit the continued operation of the non-statutory system of requesting DNA samples to be voluntarily given. Pursuant to section 29 of the Courts of Justice Act 1924 the Supreme Court considered the following point of law: “Is it

*lawful for a member of An Garda Síochána when taking a sample of blood from a person in custody who voluntarily agrees to provide that sample for the purpose of forensic analysis to do so without having invoked the provisions of Section 2 of the Criminal Justice (Forensic Evidence) Act, 1990?"*. The Supreme Court ruled that it was lawful. The Garda Síochána have a power at common law to take samples for forensic testing where this is done on the basis of a free and voluntary consent of the person detained.

### Use of Certificate of Analysis in Drugs Cases

- 3.8** In the case of the *Director of Public Prosecutions v. Omotoya Bakara*, unreported, High Court, 20 October 2008, the applicant was convicted in the District Court of possession of a controlled substance contrary to section 3 of the Misuse of Drugs Act 1977 as amended. He then appealed his conviction to the Circuit Court. He had been furnished with a certificate pursuant to section 10 of the Misuse of Drugs Act 1984. The certificate stated that the substance which the Gardaí found in his possession was cannabis. These certificates are routinely handed into court by the prosecution to prove that what was found on an accused was a controlled drug. The use of the certificate avoids the necessity of the prosecution to call a witness from the Forensic Science Laboratory in every case. The prosecution refused his application to cross-examine the forensic scientist who had prepared the certificate. The applicant then initiated a judicial review seeking an order of the High Court directing the prosecution to make the forensic scientist available. The High Court refused the relief sought ruling that a certificate is of such a scientific nature that it has to be amenable to *prima facie* proof by certification.

### PRESERVATION OF EVIDENCE

- 3.9** On occasion the Gardaí will not acquire and/or retain video evidence of a crime being committed, or will return to the owner the motor car involved in the incident from which the charges arise, prior to the Defence having a chance to have it professionally examined. This can result in an accused initiating judicial

review proceedings seeking to prohibit his trial on the basis that evidence relevant to his defence is missing. Recent case-law from the Supreme Court has been to discourage judicial review in these circumstances on the basis that an applicant's grievance can be dealt with at the court of trial.

- 3.10** In *Savage v. Director of Public Prosecutions* [2008] IESC 39, the appellant appealed against an order of the High Court which refused to grant him an order prohibiting his trial of charges of unauthorised use of a motor vehicle and dangerous driving causing serious injury. He had sought to prohibit his trial on the basis that the Gardaí had failed to preserve the vehicle for his inspection. It was alleged by the Gardaí that they had observed him driving it at high speed before crashing. A Public Service Vehicle inspection of the vehicle had been conducted before it was destroyed and the PSV Inspector confirmed that the vehicle was dangerously defective in terms of its braking and suspension. The Supreme Court dismissed the appeal holding that the applicant had failed to convince the Court that the loss of the vehicle would lead to an unfair trial. In the course of her judgment Denham J. suggested that in cases like these it would be best practice if the Gardaí should serve an accused or potential accused with a Notice of Intention of An Garda Síochána to destroy a vehicle. Such a Notice would alert a person to the situation and give them time to have the car examined if they wished. The same procedure should be followed by the Garda Síochána in relation to any evidence which they are considering returning to its owner.

### DELAY

- 3.11** The passage of time between the commission of an offence and its prosecution may give rise to the risk of an unfair trial. Witnesses may be dead, unable to give evidence due to old age or illness, or unable to remember. The defendant may be unable to obtain evidence which might have helped the defence case, such as support for an alibi. In the last few years a number of judgments concerning delay have set out the principles to apply in considering the effects

of delay on the rights of the accused. In the following Supreme Court cases the issue of delay in cases being prosecuted on indictment and cases being prosecuted summarily was examined.

### Delay and Prosecutions on Indictment

- 3.12** In *McFarlane v. Director of Public Prosecutions* [2008] 4 I.R. 117, the applicant sought to prohibit his trial on the grounds of delay caused due to alleged prosecutorial or systemic delay. He had been charged in 1998 in relation to offences which it was alleged he had committed in 1983. In 1999 he commenced judicial review proceedings seeking an order of prohibition on the grounds of delay. He lost that case in 2006 and then instituted a second set of judicial review proceedings arguing that the delays experienced in resolving the first judicial review proceedings constituted a breach of his right to a fair trial. The Supreme Court rejected his application and held that the test or factors to apply when considering if an applicant has suffered a breach of his right to an expeditious trial are as follows: (1) the length of the delay, (2) the reasons for the delay, (3) the role of the applicant and (4) any prejudice suffered.

### Delay and Summary Prosecutions

- 3.13** In the cases of *Director of Public Prosecutions v. Cormack* and *Director of Public Prosecutions v. Farrell* [2008] IESC 63, the Supreme Court again considered the question of delay. The cases were heard together by the Supreme Court.
- 3.14** In *Farrell's* case the applicant had sought to prohibit his prosecution for summary offences based on delay. He claimed there was a 17 month delay in prosecuting him. The Supreme Court dismissed his application and ordered that his prosecution should proceed. The Court found that there was a degree of delay, but no gross delay. The Court also found that the appellant was also partially responsible for some of the delay.
- 3.15** In *Cormack's* case the applicant had sought to prohibit his prosecution for summary offences based on delay. He claimed there was a two

year delay in prosecuting him. The Supreme Court dismissed his application and ordered that the prosecution should proceed. The Court found that the period of delay did not warrant the making of an order for prohibition on the basis that the appellant had singularly failed to point to any circumstances of prejudice arising by virtue of delay, nor was he able to point to any real element of heightened stress or anxiety from the delay.

### DISCLOSURE

- 3.16** The prosecution is under a duty to disclose to an accused person material which is relevant to his defence. This obligation is of course subject to certain limitations such as the relevancy of the material and whether or not the prosecution is in actual possession of the material. The extent of this duty of disclosure was looked at in the following two cases:

### Disclosure & Relevancy Hearings

- 3.17** In *Director of Public Prosecutions v. Mullane* [2008] IEHC 391, the accused was charged with a speeding offence. Before the trial commenced his solicitor had sought a wide ranging list of documents in connection with the offence. The list was very extensive and contained 29 categories of documents. The information requested related to the system of processing fixed charge notices from the uploading of information from a hand held computer through to the issuing of the notice. The District Court Judge acceded to the application without conducting a "relevancy" hearing. The Director of Public Prosecutions sought to quash the disclosure order. The High Court quashed the order ruling that to grant such a far reaching order for disclosure without having a relevancy hearing did not respect the concept of proportionality or the public interest in the matter. The High Court remitted the matter back to the District Court Judge to enable him to carry out a full relevancy hearing.

### Third Party Disclosure Orders

- 3.18** In *Director of Public Prosecutions v. Tom O'Malley* [2008] IEHC 117, the accused was awaiting trial in the District Court charged with a drink

driving offence. The District Court Judge hearing the case had referred a number of questions to the High Court under the consultative case stated procedure. One of the questions to be determined was whether the District Court Judge could make an order for disclosure against a third party. The Judge had made an order directing the Medical Bureau of Road Safety to provide the accused with a copy of the software code of the machine which was used to test an arrested person's breath for alcohol. This machine is known as the Lion Intoxilyzer. The High Court held that an order for disclosure against a third party cannot be made in criminal proceedings. This principle had been established in the case of *Director of Public Prosecutions v. Sweeney* [2002] 1 ILRM 532.

## DRINK DRIVING

- 3.19** On the basis of guidelines issued to the Garda Síochána from the Medical Bureau of Road Safety, it is recommended that arrested persons are usually observed for twenty minutes prior to the test being administered to ensure "nil by mouth". The consequences of an accused person being observed for a longer period than recommended was examined in the following case:

### Twenty Minute Observation Period

- 3.20** In *Director of Public Prosecutions v. Robin Fox* [2008] IESC 45, the Director of Public Prosecutions was successful in his appeal by way of case stated against a decision by a District Court Judge to dismiss a charge of drink driving against the accused. The accused had been arrested for drink driving. He was taken to the Garda station and observed for a period of 27 minutes by the Gardaí in order to ensure that he did not eat or drink anything before being asked to provide two samples of his breath. He was found to be over the legal limit and was prosecuted in the District Court for drink driving. The case was dismissed with the District Court Judge ruling that there had been a deliberate violation of the accused's rights as he had been detained for 7 minutes above the recommended 20 minutes in circumstances where the District Court was not

told why the additional period of detention was necessary. In allowing the Director's appeal to the Supreme Court, it was held that what happened was simply a question of delay. The Supreme Court noted that the accused had been in the Garda station for over 2 hours and that there are no statutory provisions laying down strict time limits regarding observation of a prisoner suspected of drink driving. It ruled that the real question to be asked was if the period of delay (7 minutes) was so unreasonable as to warrant the detention unlawful in the absence of an objective explanation. In this case the delay was not regarded as very significant.

## ERRORS ON CHARGE SHEETS & FIXED PENALTY NOTICES

- 3.21** There were two cases which looked at the consequences of errors on a charge sheet and fixed penalty notice.

### Errors in the Charge Sheet

- 3.22** An application by the prosecution to amend a charge sheet was at issue in the case of the *John Connolly v. Director of Public Prosecutions*, unreported, Supreme Court 27 June 2008. This was a consultative case stated from the District Court. The accused had been charged with an offence of cultivation of cannabis plants without a licence. The statutory citation on the charge sheet read that the offence was contrary to sections 17 and 27 of the Misuse of Drugs Act 1977. There was no reference on the charge sheet to the fact that section 17 had been substituted by section 11 of the Misuse of Drugs Act 1984. The District Court Judge dismissed the charge holding that the charge was not valid in law as he was of the view that there was a fundamental distinction between an amending section and a substituting section. On appeal by the Director of Public Prosecutions to the High Court by way of case stated the Court held, applying the case of *State (Duggan) v. Evans*, 112 ILTR p.61 that the District Court Judge had been incorrect and ordered that the case be remitted to the District Court. The defendant then appealed to the

Supreme Court and the Supreme Court in an ex-tempore judgment affirmed the ruling of the High Court.

### Errors on the Fixed Penalty Notice

- 3.23** In the case of *Director of Public Prosecutions v. O'Sullivan* [2008] IEHC 375, the consequences of 33 errors on a fixed penalty notice were examined. The accused had failed to pay a fixed penalty notice for a speeding offence and subsequently received a summons for speeding. When he appeared before the District Court Judge he successfully argued that his case should be dismissed. He argued that the original notice had contained 33 errors in it and was not the precedent form that was normally used. He submitted to the District Court Judge that since the original notice had contained 33 errors on it he was not obliged to pay the original fine. When he did not pay the fine he received the summons. The District Court Judge held that the notice was defective and dismissed the summons. On an application by the Director of Public Prosecutions the District Court Judge stated a case to the High Court where he asked if he was correct in dismissing a speeding summons on the grounds that the original fixed penalty notice which was not paid by Mr. O'Sullivan was defective. The High Court answered the case stated by ruling that the summons should not have been dismissed because the errors in the fixed penalty notice were trivial and not that fundamental such as to mislead the defendant.

### JUDICIAL REVIEW

- 3.24** An applicant for leave for judicial review is obliged to apprise the leave Judge of all material facts at the leave stage. An applicant is also required to move the application within certain time limits. These two issues arose in the following cases:

### Non-Disclosure of Material Facts

- 3.25** In *Dean v. Director of Public Prosecutions* [2008] IEHC 87, leave for judicial review was refused on the basis of non-disclosure of material facts to the High Court. The applicant had sought an order prohibiting his trial on serious offences

under the Waste Management Act 1996. It transpired that statements made by him to the Gardai wherein he admitted to dumping, but denied knowledge of the unlicensed nature of the site, were not brought to the notice of the Judge when the initial leave application was made. At the substantive hearing the High Court refused the relief sought on the basis of the non-disclosure of relevant information to the Court on the initial application for leave to apply for judicial review. Judge Hedigan said that an applicant had a duty to act in the utmost of good faith. As part of that duty of good faith, an applicant for leave for judicial review must put all relevant facts and law before the Court, even if it did not support his application.

### Breach of time limits

- 3.26** In *AHP Manufacturing BV v. Director of Public Prosecutions* [2008] IEHC 144, the Director was successful in his application to set aside the grant of leave for judicial review which had been granted to the applicant. The applicant was an operator of a pharmaceutical production facility. It was granted an Integrated Pollution Control Licence by the Environmental Protection Agency in January 1997. The company was subsequently charged with a number of offences in relation to the disposal of waste. It was alleged that the company had breached certain conditions attached to its licence. The company had sought to prohibit its trial claiming that the conditions attached to its licence which had resulted in the charges were invalid or unlawful. The High Court refused the relief sought and set aside the grant of leave ruling that the applicant was precluded from bringing these judicial review proceedings because it was many years outside the time limit imposed by section 87(10) of the Environmental Protection Agency Act 1992. This legislation stipulated that the relevant time limit within which to challenge a licence and conditions attached by way of judicial review was within eight weeks of the grant of the licence. In this case the applicant company had been granted its' licence in January 1997 whereas leave for judicial review was granted in January 2007.

## OFFENCE OF HARASSMENT

**3.27** The legal definition of the phrase ‘persistently’ in relation to the offence of harassment under the Non Fatal Offences Against the Person Act 1997 was examined by the High Court in the case of *Director of Public Prosecutions v. Lynch* [2008] IEHC 183, unreported, High Court, 5 June 2008. In this case the accused had been charged in the District Court with an offence of harassment contrary to section 10 of the Act. He had admitted that he had indecently exposed himself to two children at their home on four separate occasions during the course of an afternoon. The issue for the District Court to decide was whether the four incidents of indecent exposure, occurring within a relatively short space of time of one another over the course of one afternoon, and occurring quite close to one another came within the meaning of the phrase “persistently” for the purposes of the legislation. The District Court Judge referred the case to the High Court by way of case stated. The High Court held that it was satisfied that the requirement of persistence was fulfilled by incidents which were separated by intervening lapses of time as in the present case and secondly incidents capable of being severed even if they are not so severed or immediately succeed each other.

## OFFENCE OF BREACH OF THE PEACE

**3.28** The offence of breach of the peace contrary to section 6 of the Criminal Justice (Public Order) Act 1994 was examined in the case of *Paul Clifford v. Director of Public Prosecutions* [2008] IEHC 322, unreported, High Court, 29 October 2008. The appellant was convicted of having committed an offence contrary to section 6 of the Act. He had entered the public office of Kilmainham Garda Station and had been threatening and abusive to Gardaí. None of the public present attempted to become involved and shied away from any confrontation. It was argued on his behalf that there was no evidence he had intended to breach the peace or was reckless as to whether or not a breach would occur. The District Court Judge hearing the charge stated a case to the High Court asking whether or not he was entitled to

infer an intention to breach the peace in such circumstances. The High Court held that it was possible for the District Court Judge to infer, where it is moved to convict under section 6 of the Criminal Justice Public Order Act 1994, an intention or recklessness if the evidence of the conduct of the accused is sufficient to support that inference.

## SENTENCING

**3.29** In determining the appropriate sentence to be imposed on conviction, a number of factors must be considered by the trial Judge. For example, does the accused have any previous convictions, did the accused plead guilty, how serious were the offences committed and what was the effect of the crime on the victim.

### Sentencing and the Market Value of Drugs

**3.30** In the case of *Director of Public Prosecutions v. Derek Long* [2008] IECCA 133, the Court of Criminal Appeal held that the quantity and value of drugs seized are critical factors for a trial Judge to take into consideration when passing sentence. *Long* had been convicted of possession of drugs for sale and supply. The street value of the drugs was €111,370. He pleaded guilty and the Circuit Court had sentenced him to 2 years imprisonment. The Director of Public Prosecutions sought a review of the sentence under section 2 of the Criminal Justice Act 1993. The Director of Public Prosecutions submitted that the trial judge had erred in law in failing to take into account the gravity of the offence having regard to the substantial value of the drugs. The Court of Criminal Appeal agreed and quashed the sentence and re-listed the case for sentencing. The Court ruled that the trial judge was incorrect in stating that the value of a particular haul was “not a material factor”, when it came to sentencing.

### Consecutive Sentencing

**3.31** The issue of consecutive sentencing was considered in the case of *Director of Public Prosecutions v. Abdulakim Yusuf* [2008] IECCA 37. In this case the appellant had been convicted of drug offences on five separate occasions.



Pursuant to section 11 of the Criminal Justice Act 1984, he was sentenced to five consecutive sentences totaling 11 years. The issue which arose in the case was whether section 11 of the 1984 Act required that, in a case where more than one sentence of imprisonment is being imposed in respect of each of a number of offences committed while the offender was on bail, should each sentence be consecutive to the previous sentence or does the section merely require that the last such sentence to be imposed should be consecutive to sentences imposed for a previous offence? In delivering Judgment Kearns J. referred to *Director of Public Prosecutions v. Joseph Cole* (2003), where Mr. Justice Fennelly stated that the working of the provision does not require cumulative consecutive sentences. The Court held that section 11 of the 1984 Act does not require that every sentence imposed for an offence committed while on bail is consecutive to any other similar sentence save as regards to the last sentence to be imposed. The Court quashed the 11 years sentence and imposed a sentence of 9 years instead.

# 4 PROSECUTION POLICY

## UNIT

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**4.1** The Prosecution Policy Unit was established in January 2008. Staffed initially by a Head of Policy, during the course of 2008 the Unit subsequently recruited a Deputy Head of Policy and a Legal researcher. The main aims of the Prosecution Policy Unit are:

- The development and implementation of proposals to assist in ensuring a consistency of approach in prosecutorial decisions as well as ensuring a consistency of approach by barristers and solicitors presenting cases on behalf of the Office.
- The management of responses to international and national criminal justice policy proposals on which the views of the Office are frequently sought,
- The development of responses to proposed legislation and legal developments generally.
- To advise the Director in relation to policy issues and criminal justice issues generally, in particular policy towards the victims of crime.

**4.2** In the initial phase the Unit concentrated on the development of a business plan, identifying policy gaps and work priorities as well as sources of existing policy within the Office. Critical in this process was the development of links with prosecution services in neighbouring jurisdictions. Policy Unit staff undertook a series of visits to the prosecution services of Northern Ireland, England and Wales and Scotland, all of which have long established prosecution policy units.

**4.3** In addition, the policy unit set about developing an awareness of the establishment of the Unit, fostering valuable working

relationships with key criminal justice agencies, including the Garda Síochána, the Department of Justice, Equality and Law Reform, the Law Reform Commission and the Victims of Crime Office and victim support organisations, both statutory and non-Governmental.

**4.4** Prior to the establishment of the policy unit, the Office had been engaged for some time in an examination of the policy of not giving reasons for decisions to bring or maintain a prosecution, other than to the Garda Síochána, culminating in the publication of a discussion paper in January 2008 and a wide-ranging internal and public consultation process.

**4.5** From its inception, the policy unit took a lead role in the reasons project; logging, responding to and analysing the submissions received and drafting the report detailing the findings of the consultation process. A pilot policy change was announced by the Director with effect from October 2008 whereby reasons will be given in writing in cases involving a fatality where an explanation for a decision not to prosecute or to discontinue a prosecution is requested by parties close to the deceased.

**4.6** The Office of the Director of Public Prosecutions co-operated with two major research projects examining attrition rates in rape cases - attrition in this context referring to the decreasing numbers of rape cases which progress through the successive stages of the criminal justice process, from report to the Gardai through the prosecutorial decision making process, to trial and conviction or acquittal.

**4.7** The first study, funded by the Rape Crisis Network Ireland and conducted by the National University of Ireland, Galway, under Research Director, Mr. Conor Hanly, looked at the process



from a number of perspectives, including interviewing complainants and examining court records. The policy unit anatomised information from over 600 rape files detailing the prosecutorial decision making process through to case outcomes and a specific study of complainant withdrawal.

**4.8** The second study, conducted by Professor Paul O'Mahony of Trinity College Dublin, looked at rape attrition in a comparative EU context, funded under the EU Daphne scheme. This is a European comparative rape attrition study comprising of 11 Countries: England, Ireland, France, Belgium, Sweden, Germany, Austria, Switzerland, Greece, Hungary, & Portugal, tracking 100 reports of adult rape from 1 April 2004 looking at the points and causes of attrition. The project has four strands:

- The tracking of 100 sequentially rape reports through to conclusion commencing on 1 April 2004
- A history of legislation/policy/practice in relation to rape over the past 30 years
- Interviews with key personnel in participating countries
- A mapping of the steps in the criminal justice process in each participating country.

**4.9** The Policy Unit provided detailed raw data from the sample of 100 sequentially reported rape cases in which the Office received a file.

**4.10** Participation in these research projects was very resource intensive, however it has greatly enhanced our own knowledge of the issues surrounding the prosecutorial decision-making process in sexual offences. Both these projects have highlighted areas which require further research, most notably the high levels of complainant withdrawal in rape cases.

**4.11** The Domestic Violence Homicide Project was commissioned by Womens' Aid to analyse the antecedents to a number of female domestic violence homicides with a view to determining the nature and quality of interventions with the victim and/or perpetrator and whether

opportunities for effective intervention were maximised. It asked in essence what could be learned from these tragic deaths. It is hoped that this research may prove to be a valuable starting point for the development of a domestic homicide review mechanism in Ireland.

**4.12** The Child and Woman Abuse Studies Unit of the London Metropolitan University successfully tendered for this research project. In 2008 the researchers approached the Office of the DPP and the Domestic Violence and Sexual Assault Investigation Unit of the Garda Síochána, seeking the joint co-operation of both agencies with a pilot process which involved extracting data from a random sample of domestic homicide files from cases within the last ten years. Following this successful pilot it was decided that the Policy Unit would, in partnership with the Gardaí, co-operate with the full study. The full study aims to examine all cases of intimate partner homicide from 2001 – 2007 where all proceedings (including appeals) have concluded. Data extraction was scheduled for the first quarter of 2009.

**4.13** During 2008 the Prosecution Policy Unit commenced a number of internal research projects. These range from development of policy in relation to sentencing and the role of the prosecutor in the sentencing process, to aspects of prosecutorial decision making in specific contexts. For example, the offence of unlawful carnal knowledge; defilement in the wake of the loss of strict liability and the subsequent enactment of the Sexual Offences Act, 2006.

**4.14** During 2008 the legal and policy implications of a wide range of legislative matters were considered by the policy unit including:

- the Criminal Law (Admissibility of Evidence) Draft Bill, 2008;
- the constitutional challenge to the provisions of the Criminal Law (Sexual Offences) Act, 1993;
- the Criminal Law (Amendment) Act, 1935;

- the operation of section 5(1) of the Criminal Justice Act 1993 (victim impact statements) in circumstances where the victim is under 18 or has an intellectual disability;
- wiretapping & EC Data Retention Directive;
- preliminary views on jury reform as part of the Law Reform Commission's consultation process.

**4.15** In addition the Policy Unit co-ordinated the Office response to COSC (the National Office for the Prevention of Domestic, Sexual and Gender-based Violence) towards the development of a National Strategy to prevent and effectively respond to domestic, sexual and gender-based violence.

**4.16** In conclusion, the work of the Prosecution Policy Unit, in its inaugural year, has been broad and varied. In addition to the appointed staff, the unit has been assisted by the work of legal interns who joined the Policy Unit on a temporary basis throughout the year offering very valuable assistance, particularly in relation to the major research projects undertaken.

**4.17** In addition to the externally focussed collaborative work with other criminal justice agencies commenced by the Policy Unit so successfully in 2008, the need for internal policy guidance will determine much of the unit's workload in the coming year. This will include the development of policy guidelines in relation to fatal offences, including homicides and fatal road traffic offences.

# 5 FREEDOM OF INFORMATION

**5.1** Section 46(1)(b) of the Freedom of Information (FOI) Act, 1997 provides a right of access only with regard to records which relate to the general administration of the Office. This in effect means that records concerning criminal prosecution files are not accessible under the FOI Act.

**5.2** The Office continues to make FOI information available as readily as possible. Our section 5 and 6 Reference Book is widely available both in public libraries throughout the country and on our website at [www.dppireland.ie](http://www.dppireland.ie). This publication outlines the business of the Office including the types of records kept.

**5.3** The FOI unit can be contacted by telephone or by e-mail at [foi@dppireland.ie](mailto:foi@dppireland.ie). This e-mail address can be used for general queries on FOI but cannot be used to submit a request where an application fee is required.

**5.4** During 2008 a total of eleven requests were submitted to the Office. Eight of the requests were refused under the Act and two requests were withdrawn. One request was granted. The reason for the refusals was that the records sought did not relate to the general administration of the Office.

**5.5** Two of the requests were submitted by journalists, while the other nine requests were made by the general public with a total of ten of these requests relating to criminal files.

**5.6** In the eight cases where requests were refused, only one of the people making the request sought an internal review of the original decision. In this case the original decision was upheld. No requester appealed a decision to the Information Commissioner.

## Requests Received 2008

Refused under section 46(1)(b)	8
Withdrawn / dealt with outside of FOI	2
Requests Granted	1
<b>TOTAL REQUESTS</b>	<b>11</b>

## Requesters 2008

Journalists	2
General Public	9

## Reviews

Requests for Internal Review	1
Requests to the Information Commissioner for Review	0

# 6 STATISTICS

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## Explanatory Note in Relation to Statistics

**6.1** The statistics outlined in this report have been compiled from the Office's new Case and Document Management system which went live in the Office at the end of October 2008.

**6.2** The new system operates on an integrated basis where all elements of a case, from the initial direction process to an appeal in the Court of Criminal Appeal, have the same case reference, providing a snapshot picture of all the different elements of a case at one glance.

**6.3** As part of the implementation process data from the previous legacy systems was migrated onto the new system. The legacy systems consisted of numerous non-compatible databases, and the data migration processes involved a significant level of data matching and data cleansing. Because of this, there may be some slight discrepancies between statistics produced from the new system and data outlined in previous reports.

**6.4** This chapter is broken down into four distinct sections:

- Charts 1 to 5 relate to the receipt of files in the Office and include details on the types of directions made;
- Charts 6 to 10 provide details of the results of cases prosecuted on indictment by the Director in respect of files received in the Office between 2005 and 2007;
- Charts 11 to 13 relate to applications to the Courts for review of sentence on grounds of undue leniency; confiscation and forfeiture of criminal assets; and European Arrest Warrants.
- Charts 14 to 16 provide statistics on Office expenditure.

**6.5** All the yearly demarcations in the statistical tables refer to the year the file was received in the Office. The reason for going back so far in charts 7 to 11 is to take account of the time difference between a direction being made and a trial verdict being recorded. If statistics were to be provided in respect of 2008 case outcomes, a large proportion of the cases would still be classified as 'for hearing' and the statistics would have little value. Cases heard within a short period of being brought are not necessarily representative.

**6.6** In this report we have attempted in most instances to include updated versions of the data set out in previous Annual Reports in order to give a fuller account of the progress made since that data was previously published. Because of the continuous change in the status of cases - for example, a case which was pending at the time of a previous report may now have concluded - information given in this report will differ from that for the same cohort of cases in previous reports. In addition, data from two different years may not be strictly comparable because as time goes on more cases are completed so that information from earlier years is necessarily more complete than that from later years. Unless otherwise stated, data included in these statistics was updated in August 2009.

**6.7** Caution should be exercised when considering these statistics in the light of statistics published by other organisations such as the Courts Service or An Garda Síochána. The statistics published here are based on our own classification and categorisation systems and may in some cases not be in line with the classification systems of other organisations.

Chart 1 shows the total number of files received by the Office of the Director of Public Prosecutions from 1976 to 2008.

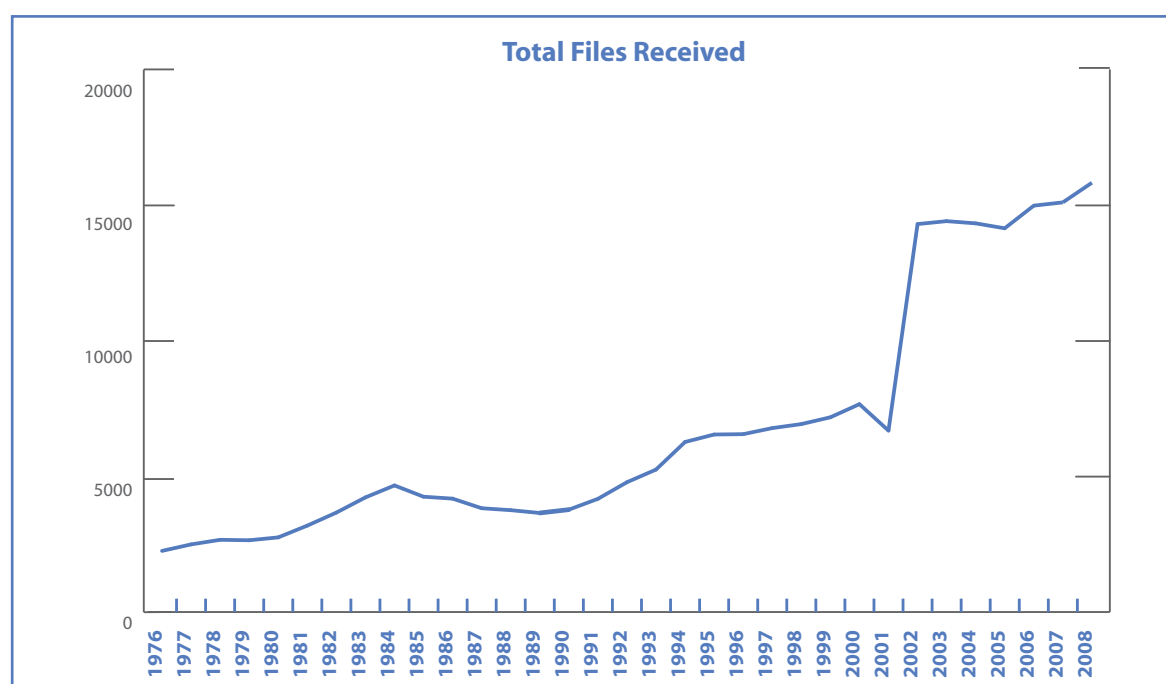
The vast majority of files received in the Office relate to the prosecution of criminal cases. The remainder deal with general queries, applications for judicial review or requests for legal advice from the Garda Síochána or local state solicitors. The number of files received, and the complexity of the issues that have to be addressed, has increased generally since the establishment of the Office.

The significant drop of over 1,000 files from 2000 to 2001 was the result of a change in administrative arrangements authorising the prosecution of certain offences by the Garda Síochána without the necessity for the prior submission of files to this Office for directions. The sharp increase in figures from 2001 to 2002 is due to the transfer of the Criminal Division of the Chief State Solicitor's Office to the Office of the Director of Public Prosecutions in December 2001 to form the Solicitors Division of the Office.

\* **NOTE:** The figures for the years 2006, 2007 and 2008 do not include the number of other legal files received in the Office. These are files which relate to legal issues such as requests for legal advice from the Garda Síochána and local state solicitors. Because they do not relate to individual criminal prosecution files, it was considered more appropriate not to include them for statistical purposes in this year's report.

Chart 1 **TOTAL FILES RECEIVED**

Year	Files	Year	Files	Year	Files
1976	2,298	1987	3,902	1998	7,066
1977	2,542	1988	3,829	1999	7,321
1978	2,715	1989	3,724	2000	7,815
1979	2,698	1990	3,849	2001	6,821
1980	2,806	1991	4,255	2002	14,586
1981	3,249	1992	4,880	2003	14,696
1982	3,738	1993	5,356	2004	14,613
1983	4,309	1994	6,393	2005	14,427
1984	4,759	1995	6,674	2006	* 15,279
1985	4,335	1996	6,687	2007	* 15,401
1986	4,263	1997	6,915	2008	* 16,140



The Solicitors Division of the Office of the Director of Public Prosecutions provides a solicitor service to the Director and acts on his behalf. The division also deals with cases which do not require to be referred to the Directing Division for direction.

Chart 2 represents the number of cases dealt with solely within the Solicitors Division and includes District Court prosecution files, appeals from the District Court to the Circuit Court and High Court Bail applications. The figure for District Court Appeals represents the number of files held, not the number of individual charges appealed. One defendant may have a multiplicity of charges under appeal.

The Solicitors Division also deals with judicial review applications. While some of these applications are dealt with solely within the Solicitors Division, others require to be forwarded to the Directing Division for direction. However, because the dedicated Judicial Review Section is based in the Solicitors Division the total number of judicial review applications dealt with are included in this chart. Those applications which required a direction are also included in the figures for the Directing Division (Chart 3) under the category 'other legal files'. Judicial reviews may be taken by the Director or be taken against him.

**Chart 2 FILES DEALT WITH BY SOLICITORS DIVISION**

	2008	%	2007	%	2006	%
District Court Prosecution Files	2082	27%	2118	28%	2321	30%
Appeals from District Court to Circuit Court	2623	34%	2667	35%	2267	30%
High Court Bail Applications	2599	34%	2443	32%	2681	35%
Judicial Review Applications	348	5%	436	6%	358	5%
<b>TOTAL</b>	<b>7652</b>		<b>7664</b>		<b>7627</b>	

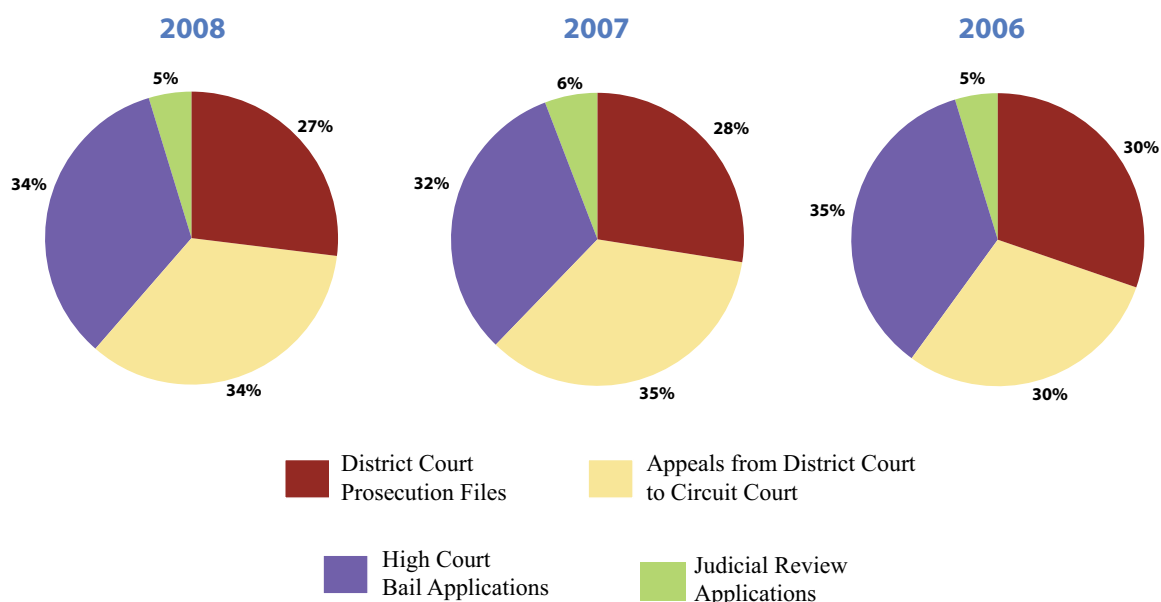
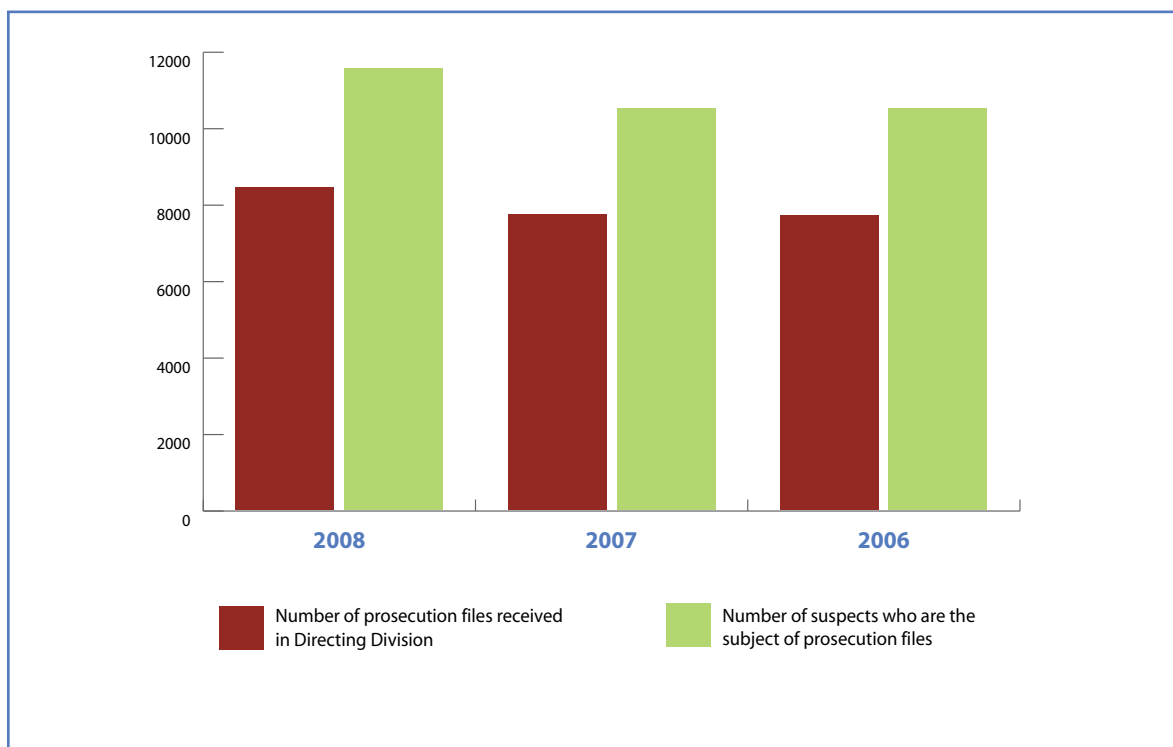


Chart 3 compares the number of files received in the Directing Division to the number of suspects who are the subject of those files. Many files relate to more than one suspect and to treat such a file as a single case can give a misleading impression of the workload of the Office. It is important, therefore, to look at the total number of suspects as well as the total number of files.

**Chart 3 BREAKDOWN OF FILES RECEIVED IN DIRECTING DIVISION**

	2008	2007	2006
Number of prosecution files received in Directing Division	8437	7737	7703
Number of suspects who are the subject of prosecution files	11537	10493	10499



The following chart shows a breakdown of the disposal of files received in the Directing Division in 2006, 2007 and 2008 (as of August 2009). The Garda Síochána and specialised investigating agencies submit files either directly to our Solicitors Division or to the local state solicitor for a direction whether or not to prosecute. Depending on the seriousness of the offence and the evidence disclosed in the file, a decision will be taken as follows:

**No Prosecution:** A decision not to prosecute is made. The most common reason not to prosecute is because the evidence contained in the file is not sufficient to support a prosecution. The figures however list all decisions not to prosecute.

**Prosecute on Indictment:** It is decided to prosecute in the Circuit, Central or Special Criminal Courts.

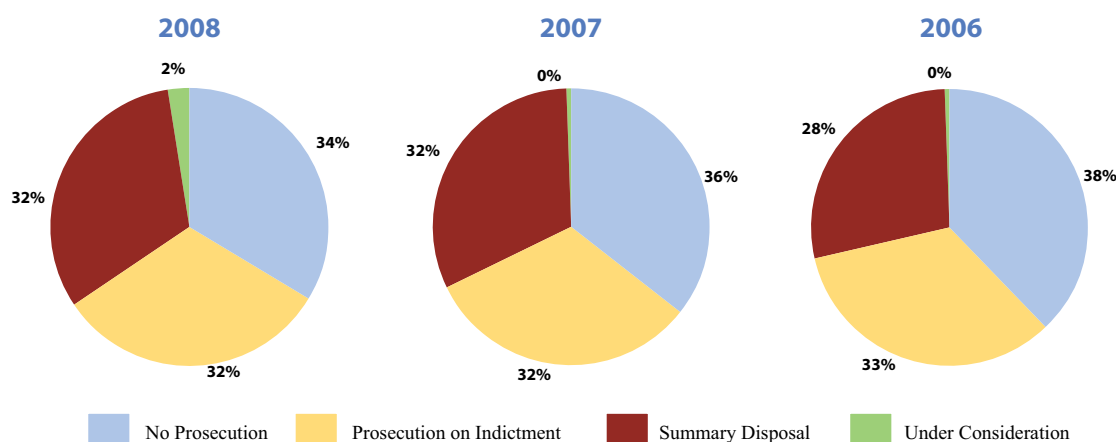
**Summary Disposal:** The offence is to be prosecuted in the District Court.

**Under Consideration:** Files in which a decision has not been made. This figure includes those files in which further information or investigation was required before a decision could be made. Further information is sought more often than not to strengthen the case rather than because of any deficiency in the investigation.

**NOTE:** The figures for 2006 and 2007 have been updated since the publication of previous Annual Reports. The reduction in the files 'Under Consideration' figures compared with those given in previous years reflect developments on those files since then. 'Prosecutions on Indictment' include those cases in which defendants elected for trial by jury and cases where the judge of the District Court refused jurisdiction, even though the Director initially elected for summary disposal.

Chart 4 **DISPOSAL OF DIRECTING DIVISION FILES BY NUMBER OF SUSPECTS SUBJECT OF FILES RECEIVED**

Direction Made	2008	%	2007	%	2006	%
No Prosecution	3901	34%	3737	36%	3988	38%
Prosecution on Indictment	3685	32%	3390	32%	3509	33%
Summary Disposal	3688	32%	3314	32%	2969	28%
<b>TOTAL OF FILES DISPOSED</b>	<b>11274</b>	<b>98%</b>	<b>10441</b>	<b>100%</b>	<b>10466</b>	<b>100%</b>
Under Consideration	263	2%	52	0%	33	0%
<b>TOTAL</b>	<b>11537</b>		<b>10493</b>		<b>10499</b>	





A decision may be made not to prosecute in relation to a particular file for a variety of reasons other than the main reasons set out in this chart (referred to as 'other' below). The death or disappearance of the suspect, the death or disappearance of the complainant or the refusal of a complainant to give evidence are some examples.

Chart 4a **BREAKDOWN OF MAIN REASONS FOR A DIRECTION NOT TO PROSECUTE**

Main Reasons for No Prosecution	2008	%	2007	%	2006	%
Insufficient Evidence	3018	77%	3069	82%	3133	79%
Juvenile Diversion Programme	91	2%	66	2%	170	4%
Public Interest	284	7%	240	6%	164	4%
Sympathetic Grounds	19	0%	25	1%	50	1%
Time Limit Expired	49	1%	69	2%	165	4%
Undue Delay	42	1%	48	1%	61	2%
Other	398	10%	220	6%	245	6%
<b>TOTAL</b>	<b>3901</b>		<b>3737</b>		<b>3988</b>	

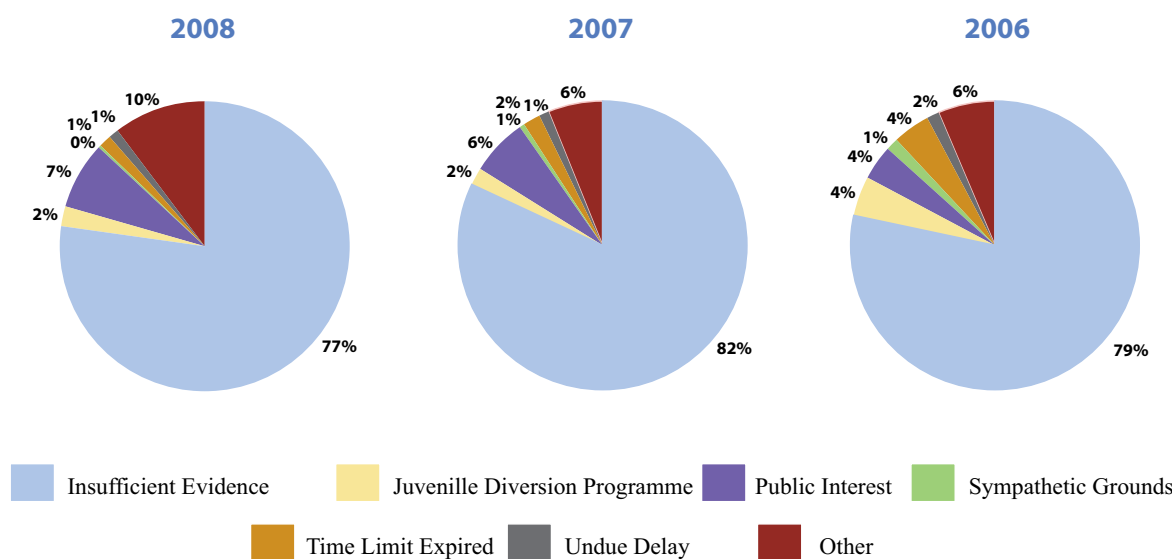


Chart 4b is a breakdown of directions to prosecute on indictment, by the county in which the offence was committed. It includes cases directed to be heard in the Circuit Criminal, Central Criminal and Special Criminal Courts. Please note that a number of cases are still 'Under Consideration' (see Chart 4). These include cases where a file was received but further information was required. It is not possible to determine how many of these cases may eventually result in a direction to prosecute on indictment.

**Chart 4b BREAKDOWN OF NUMBER OF PROSECUTIONS ON INDICTMENT DIRECTED PER COUNTY OF OFFENCE**

	Population 2008 *	Population 2007 *	Population 2006 *	Population 2005 *	Population 2004 *	Cases per 1,000 Persons										3 Year Rolling Average		
						2008	2007	2006	2005	2004	2008	2007	2006	2005	2004	2006 -2008	2005 -2007	2004 -2006
Carlow	53,295	51,820	50,349	49,235	47,982	37	15	33	42	22	0.69	0.29	0.66	0.85	0.46	0.55	0.60	0.66
Cavan	67,300	65,769	64,003	60,936	59,959	42	29	40	29	29	0.62	0.44	0.62	0.48	0.48	0.57	0.51	0.53
Clare	114,291	112,109	110,950	107,722	105,612	76	72	74	70	62	0.66	0.64	0.67	0.65	0.59	0.66	0.65	0.63
Cork	499,481	489,950	481,295	471,489	461,745	372	372	332	321	247	0.74	0.76	0.69	0.68	0.53	0.73	0.71	0.64
Donegal	154,849	151,328	147,264	143,983	141,675	87	116	59	56	37	0.56	0.77	0.40	0.39	0.26	0.58	0.52	0.35
Dublin	1,217,800	1,210,300	1,187,176	1,160,100	1,144,400	1711	1598	1788	1562	1419	1.40	1.32	1.51	1.35	1.24	1.41	1.39	1.36
Galway	238,282	234,535	231,670	225,207	218,717	84	75	108	55	81	0.35	0.32	0.47	0.32	0.37	0.38	0.34	0.36
Kerry	145,119	142,350	139,835	138,211	135,355	64	65	62	63	58	0.44	0.46	0.44	0.46	0.43	0.45	0.45	0.44
Kildare	201,677	194,622	186,335	178,456	172,500	89	80	93	69	93	0.44	0.41	0.50	0.39	0.54	0.45	0.43	0.47
Kilkenny	92,681	90,116	87,558	85,785	83,602	45	44	67	33	56	0.49	0.49	0.77	0.38	0.67	0.58	0.55	0.61
Laois	71,092	69,334	67,059	64,074	62,465	29	34	22	26	33	0.41	0.49	0.33	0.41	0.53	0.41	0.41	0.42
Leitrim	30,441	29,749	28,950	27,675	27,231	12	13	11	12	4	0.56	0.44	0.38	0.43	0.15	0.46	0.42	0.32
Limerick	189,598	185,978	184,055	180,700	177,161	148	151	142	133	81	0.78	0.81	0.77	0.74	0.46	0.79	0.77	0.65
Longford	36,459	35,557	34,391	33,331	32,494	27	24	20	9	11	0.76	0.67	0.58	0.27	0.34	0.67	0.51	0.40
Louth	116,998	114,337	111,267	107,714	105,987	99	97	71	39	73	0.85	0.85	0.64	0.36	0.69	0.78	0.62	0.56
Mayo	127,373	125,370	123,839	123,288	119,735	64	60	53	46	52	0.50	0.48	0.43	0.37	0.43	0.47	0.43	0.41
Meath	176,238	170,072	162,831	151,228	146,181	67	68	76	70	50	0.38	0.40	0.47	0.46	0.34	0.42	0.44	0.42
Monaghan	58,881	57,542	55,997	54,891	54,011	36	37	29	41	22	0.61	0.64	0.52	0.75	0.41	0.59	0.64	0.56
Offaly	75,130	73,272	70,868	68,503	66,782	28	21	21	20	17	0.37	0.29	0.30	0.29	0.25	0.32	0.29	0.28
Roscommon	60,445	59,495	58,768	57,505	55,848	25	23	15	17	23	0.41	0.39	0.26	0.30	0.41	0.35	0.31	0.32
Sligo	64,031	62,574	60,894	60,201	59,236	29	21	50	48	40	0.45	0.34	0.82	0.80	0.68	0.54	0.65	0.76
Tipperary	156,101	152,365	149,244	146,823	143,462	95	90	64	60	46	0.61	0.59	0.43	0.41	0.32	0.54	0.48	0.39
Waterford	114,277	111,115	107,961	107,045	104,321	158	102	79	65	63	1.38	0.92	0.73	0.61	0.60	1.01	0.75	0.65
Westmeath	84,118	82,037	79,346	76,992	75,059	136	56	60	42	25	1.62	0.68	0.76	0.55	0.33	1.02	0.66	0.54
Wexford	139,457	135,598	131,749	126,889	123,659	46	53	59	46	40	0.33	0.39	0.45	0.36	0.32	0.39	0.40	0.38
Wicklow	136,585	131,806	126,194	122,716	118,620	73	74	81	64	66	0.53	0.56	0.64	0.52	0.56	0.58	0.57	0.57
TOTAL	4,421,999	4,339,100	4,239,848	4,130,699	4,043,799	3684	3390	3509	3038	2750								

\*Population figures for 2006 are taken from the census figures for that year. Population figures for years preceding 2006 are calculated based on the proration of the Population & Migration Estimates for the Regional Authority Areas as published by the Central Statistics Office in April 2006 which includes revised yearly figures for the years between 2003 and 2005. The 2007 and 2008 figures are based on a proration of the estimated 2007 and 2008 population figures as published in the Population and Migration Estimates issued in 2007 and 2008.

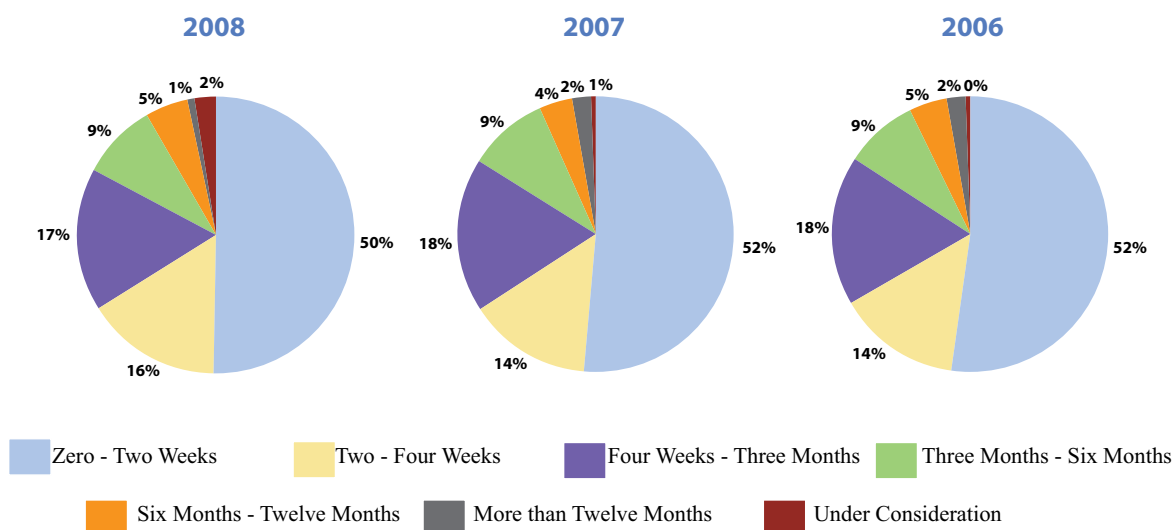
Chart 5 shows the time between the receipt of a completed prosecution file in the Office and the issuing of a direction as to whether a prosecution of a suspect should be taken or not. It has been decided to show this information by suspect rather than by file since in the case of files containing multiple suspects, decisions in respect of all suspects may not be made at the same time.

Files vary in size and complexity. Also, in some cases, further information or investigation was required before a decision could be made. Further information may be sought to enhance the proofs in a case and does not necessarily imply any deficiency in the investigation.

The time taken to issue directions is calculated on the basis of only those files which have been disposed of. Files still under consideration are therefore shown as a separate category in the table below.

**Chart 5 TIME TAKEN TO ISSUE DIRECTIONS**

Time Taken	2008	%	2007	%	2006	%
Zero - Two Weeks	5824	50%	5421	52%	5501	52%
Two - Four Weeks	1811	16%	1502	14%	1500	14%
Four Weeks - Three Months	1944	17%	1905	18%	1856	18%
Three Months - Six Months	1019	9%	988	9%	898	9%
Six Months - Twelve Months	576	5%	405	4%	472	5%
More than Twelve Months	100	1%	220	2%	239	2%
<b>TOTAL FILES DISPOSED</b>	<b>11274</b>	<b>98%</b>	<b>10441</b>	<b>99%</b>	<b>10466</b>	<b>100%</b>
Under Consideration	263	2%	52	1%	33	0%
<b>TOTAL</b>	<b>11537</b>		<b>10493</b>		<b>10499</b>	



## OUTCOMES

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### Outcomes of Prosecutions taken on Indictment

Charts 6 to 10 provide information for prosecutions on indictment taken by the Director in respect of files received in the Office between 2005 and 2007. As referred to in the initial explanatory note, care should be taken before a comparison is made with figures provided by any other organisation, as they are likely to be compiled on a different basis.

The figures in these charts relate to individual suspects against whom a direction has been made to prosecute on indictment. Statistics are provided on a suspect-by-suspect basis rather than on the basis of files received. This is because directions are made in respect of each suspect included within a file rather than against the complete file as an entity in itself. Depending on the evidence provided, different directions are often made in respect of the individual suspects received as part of the same file. References in these charts to 'cases' refer to such prosecutions taken against individual suspects. Although individual suspects on a file may be tried together where a direction is made to prosecute them in courts of equal jurisdiction, each suspect's verdict will be collated separately for the purpose of these statistics.

Statistics are provided on the basis of one outcome per suspect; this is irrespective of the number of charges and offences listed on the indictment. Convictions are broken down into: conviction by jury, conviction on plea, and conviction on a lesser charge. A conviction on a lesser charge indicates that the suspect was not convicted for the primary or most serious offence on the indictment. The offence categorisation used in the main charts is by the primary or most serious offence on the indictment. Therefore, if a defendant is convicted of a lesser offence, the offence or offences they are convicted for may be different from that under which they are categorised in the charts. For example, a suspect may be charged with murder but ultimately convicted for the lesser offence of manslaughter or charged with aggravated burglary but convicted of the lesser offence of burglary. A breakdown of convictions on a lesser charge is given in respect of cases heard in the Special and Central Criminal Courts in charts 8a and 9a. Where a suspect is categorised as 'acquitted', this means that the suspect has been acquitted of all charges.

It should also be noted that statistics set out in these charts relate to what happened in the trial court only and not in a subsequent appeal court. In other words where a person is convicted and the conviction is subsequently overturned on appeal, the outcome of the trial is still shown in our statistics as a conviction.

Care should be taken in relation to interpreting the rates of conviction and acquittal in respect of later years, as a higher number of cases will not have reached a conclusion. The picture furnished by these statistics will be less complete and therefore less representative than those in respect of earlier years. Cases heard relatively early may not necessarily be a representative sample of the whole.

### Outcomes of Applications made to the Courts

Charts 11 to 13 provide details of applications made to the Courts in relation to reviews of sentence on grounds of undue leniency, confiscation and forfeiture of criminal assets, and European Arrest Warrants.

Chart 6 shows the results of prosecutions on indictment taken in relation to defendants in respect of whom prosecutions were commenced in the years 2005 to 2007 (as of August 2009). The figures relate to:

**Conviction:** A conviction was obtained in respect of at least one of the charges brought in the case.

**Acquittal:** The defendant was acquitted on all charges.

**Not Yet Heard:** These are cases in which a decision to prosecute has been taken and the matter is before the courts.

**NOTE:** Figures have not been included for 2008 as the great majority of these cases have yet to be dealt with by the courts and the outcomes for the few cases where results are available may not be representative of the final picture covering all the cases.

Chart 6 CASE RESULTS - PROSECUTIONS ON INDICTMENT

Outcome	2007	%	2006	%	2005	%
Conviction	2102	62%	2457	70%	2252	74%
Acquittal	69	2%	142	4%	167	5%
Not Yet Heard	1172	35%	798	23%	490	16%
Struck Out/Discontinued	47	1%	112	3%	129	4%
<b>TOTAL</b>	<b>3390</b>		<b>3509</b>		<b>3038</b>	

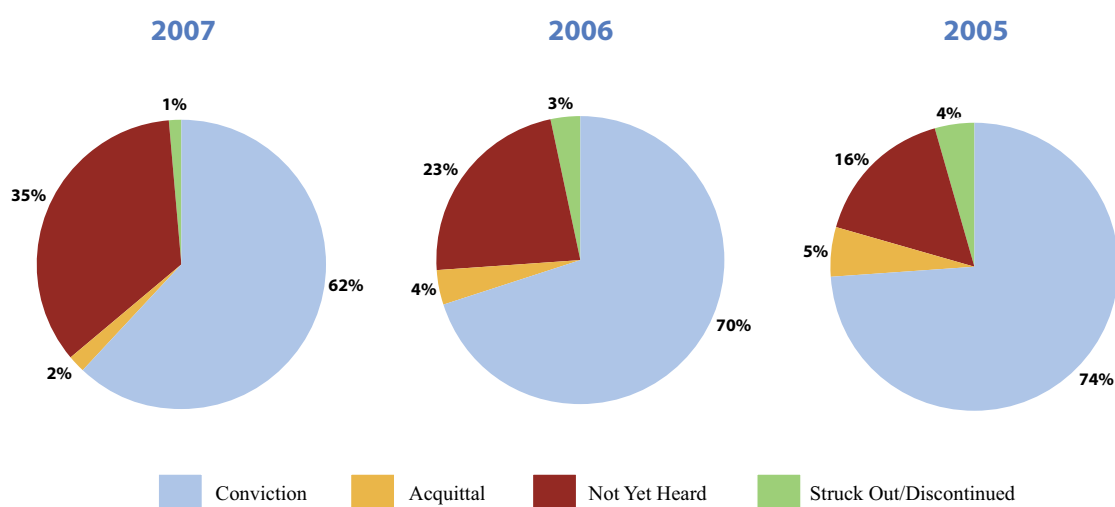


Chart 6a **BREAKDOWN OF CONVICTIONS AND ACQUITTALS (EXCLUDING CASES STILL TO BE HEARD)**

	2007	%	2006	%	2005	%
Conviction by Jury	107	5%	124	5%	144	6%
Conviction Following Plea of Guilty	1995	92%	2333	90%	2108	87%
<b>TOTAL CONVICTIONS</b>	<b>2102</b>	<b>97%</b>	<b>2457</b>	<b>95%</b>	<b>2252</b>	<b>93%</b>
Acquittal by Jury	50	2%	89	3%	109	5%
Acquittal on Direction of Judge	19	1%	53	2%	58	2%
<b>TOTAL ACQUITTALS</b>	<b>69</b>	<b>3%</b>	<b>142</b>	<b>5%</b>	<b>167</b>	<b>7%</b>
<b>TOTAL</b>	<b>2171</b>		<b>2599</b>		<b>2419</b>	

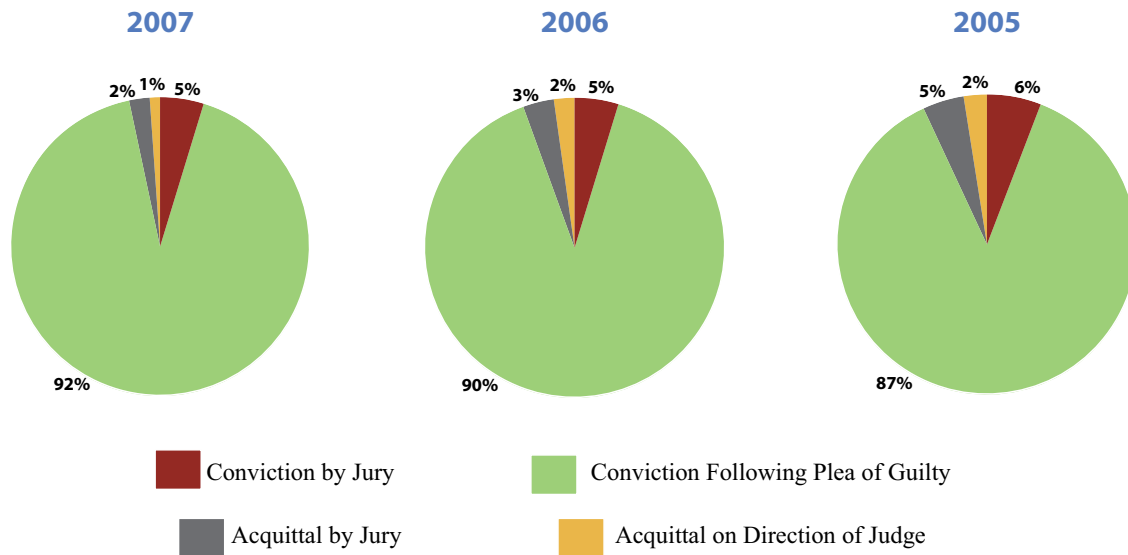


Chart 7 breaks down the prosecutions directed on indictment to be heard in the Circuit Court. The cases categorised as 'For Hearing' are those for which a verdict has not yet been recorded. In some of these cases, a trial may have begun but proceedings have been halted by a Judicial Review application. In other cases the defendant may have absconded before the trial and a bench warrant and/or extradition proceedings may be in process. Other cases, especially those of a complex nature, may not yet have come to trial. The greater proportion of cases 'For Hearing' makes the figures in more recent years less representative. This provision is also applicable to Charts 8 and 9. Where a trial results in a disagreement the case is treated as still being 'For Hearing' unless a *nolle prosequi* is entered.

**Chart 7 OUTCOMES OF CASES PROSECUTED IN THE CIRCUIT CRIMINAL COURT**

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge			For Hearing			Other Disposals		
	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005
Fatal Accident at Work	6	10	10	0	0	0	0	7	8	0	0	0	0	0	0	0	0	1	6	1	1	0	2	0
Manslaughter	7	20	11	1	3	1	2	7	8	0	0	0	0	1	1	1	0	0	3	8	1	0	1	0
Other Fatal Offences	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	
TOTAL - FATAL OFFENCES	13	31	21	1	3	1	2	14	16	0	0	0	0	1	1	1	0	1	9	9	2	0	4	0
Burglary	307	366	291	1	7	3	218	271	217	3	3	1	0	5	4	2	4	8	76	67	49	7	9	9
Fraud	41	68	44	0	3	0	19	40	27	0	0	0	0	0	0	1	3	0	21	22	15	0	0	2
Robbery	475	565	499	3	9	2	350	458	426	3	5	1	1	3	3	1	5	3	115	78	49	2	7	15
Theft	129	133	93	3	2	3	67	78	71	0	0	1	2	1	2	0	3	2	54	44	13	3	5	1
Other Offences Against Property	168	177	173	4	8	5	95	107	111	0	1	5	1	5	3	0	2	3	65	46	30	3	8	16
TOTAL - OFFENCES AGAINST PROPERTY	1120	1309	1100	11	29	13	749	954	852	6	9	8	4	14	12	4	17	16	331	257	156	15	29	43
Buggery	3	5	2	0	0	0	0	3	1	0	0	0	0	0	0	0	0	0	2	2	1	1	0	0
Child Pornography	19	9	8	0	0	0	12	7	6	0	0	0	0	0	0	0	0	1	7	2	1	0	0	0
Sexual Assault	85	119	80	4	3	7	36	47	36	0	1	0	2	7	5	0	3	1	41	54	22	2	4	9
Sex with an Underage Girl	16	1	12	0	0	0	7	1	4	0	0	0	1	0	1	0	0	0	8	0	1	0	0	6
Other Sexual Offences	24	19	7	0	1	0	6	11	5	1	1	0	0	1	0	0	0	1	17	5	1	0	0	0
TOTAL - SEXUAL OFFENCES	147	153	109	4	4	7	61	69	52	1	2	0	3	8	6	0	3	3	75	63	26	3	4	15
Dangerous Driving Causing Death	49	59	54	4	5	7	23	38	26	1	4	4	0	2	3	1	1	6	20	7	8	0	2	0
Unauthorised Taking of Motor Vehicles	75	115	131	3	4	6	57	83	107	0	0	0	1	1	2	0	0	2	14	18	11	0	9	3
Other Road Traffic Offences	30	26	25	2	0	0	19	18	18	2	1	0	0	0	0	0	0	0	7	5	6	0	1	1
TOTAL - ROAD TRAFFIC OFFENCES	154	200	210	9	10	13	99	139	151	3	5	4	1	3	5	1	1	8	41	30	25	0	12	4
Drug Offences	688	584	486	12	8	12	489	455	369	8	7	13	0	2	1	1	6	5	175	101	76	3	5	10
Firearms and Explosives Offences	157	109	116	2	4	5	88	75	77	2	4	1	2	1	4	0	0	2	61	24	24	2	1	3
Non Fatal Offences Against the Person	828	801	735	18	23	44	399	457	437	7	16	21	21	43	52	9	19	19	352	201	114	22	42	48
Public Order Offences	78	134	93	0	8	4	23	54	42	7	0	11	0	2	10	0	4	2	46	59	23	2	7	1
Revenue Offences	21	29	16	0	0	0	1	3	3	1	0	0	0	0	0	0	0	1	19	24	11	0	2	1
Other Offences	36	39	37	0	1	2	11	26	14	2	0	1	0	1	0	1	2	1	22	8	19	0	1	0
GRAND TOTAL	3242	3389	2923	57	90	101	1922	2013	2013	37	43	59	31	75	91	17	52	58	1131	776	476	47	107	125

Chart 7a **BREAKDOWN OF 'OTHER DISPOSALS' FROM CHART 7**

	2007	2006	2005
Struck Out	1	6	13
Nolle Prosequi Entered	46	101	111
Case Terminated by Judicial Review	0	0	1
<b>TOTAL</b>	<b>47</b>	<b>107</b>	<b>125</b>

Chart 7b **TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS**

	TOTAL			Conviction		
	2007	2006	2005	2007	2006	2005
Fatal Accident at Work	0	7	9	N/A	100%	89%
Manslaughter	4	11	10	75%	91%	90%
Other Fatal Offences	0	0	0	N/A	N/A	N/A
<b>TOTAL - FATAL OFFENCES</b>	<b>4</b>	<b>18</b>	<b>19</b>	<b>75%</b>	<b>94%</b>	<b>89%</b>
Burglary	224	290	233	99%	97%	95%
Fraud	20	46	27	95%	93%	100%
Robbery	358	480	435	97%	95%	95%
Theft	72	84	79	96%	95%	95%
Other Offences Against Property	100	123	127	99%	94%	95%
<b>TOTAL - OFFENCES AGAINST PROPERTY</b>	<b>774</b>	<b>1023</b>	<b>901</b>	<b>99%</b>	<b>94%</b>	<b>97%</b>
Buggery	0	3	1	N/A	100%	100%
Child Pornography	12	7	7	100%	100%	86%
Sexual Assault	42	61	49	95%	84%	88%
Sex with an Underage Girl	8	1	5	88%	100%	80%
Other Sexual Offences	7	14	6	100%	93%	83%
<b>TOTAL - SEXUAL OFFENCES</b>	<b>69</b>	<b>86</b>	<b>68</b>	<b>96%</b>	<b>87%</b>	<b>87%</b>
Dangerous Driving Causing Death	29	50	46	97%	94%	80%
Unauthorised Taking of Motor Vehicles	61	88	117	98%	99%	97%
Other Road Traffic Offences	23	20	18	100%	100%	100%
<b>TOTAL - ROAD TRAFFIC OFFENCES</b>	<b>113</b>	<b>158</b>	<b>181</b>	<b>98%</b>	<b>97%</b>	<b>93%</b>
Drug Offences	510	478	400	100%	98%	99%
Firearms and Explosives Offences	94	84	89	98%	99%	93%
Non Fatal Offences Against the Person	454	558	573	93%	89%	88%
Public Order Offences	30	68	69	100%	91%	83%
Revenue Offences	2	3	4	100%	100%	75%
Other Offences	14	30	18	93%	90%	94%
<b>GRAND TOTAL</b>	<b>2064</b>	<b>2506</b>	<b>2322</b>	<b>98%</b>	<b>95%</b>	<b>94%</b>



Chart 8 outlines the result of cases directed for prosecution in the Special Criminal Court.

**Chart 8 OUTCOMES OF CASES PROSECUTED ON INDICTMENT IN THE SPECIAL CRIMINAL COURT**

	TOTAL			Conviction by Judges			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Judges			For Hearing		
	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005
Firearms and Explosives Offences	0	1	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Murder	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Membership of Unlawful Organisation & Related Offences	10	9	8	4	0	2	1	6	1	2	0	4	1	1	1	1	2	0
<b>TOTAL</b>	<b>10</b>	<b>10</b>	<b>13</b>	<b>5</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>7</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>0</b>

**Chart 8a BREAKDOWN OF 'CONVICTIONS ON LESSER CHARGE' FOR PERSONS CHARGED WITH MEMBERSHIP OF UNLAWFUL ORGANISATION AND RELATED OFFENCES**

	TOTAL			Conviction by Jury			Conviction on Plea		
	2007	2006	2005	2007	2006	2005	2007	2006	2005
Firearms and Explosives Offences	2	0	4	0	0	0	2	0	4
<b>TOTAL</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>4</b>

**Chart 8b TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS**

	TOTAL			Conviction		
	2007	2006	2005	2007	2006	2005
Firearms and Explosives Offences	0	1	5	N/A	100%	100%
Membership of Unlawful Organisation & Related Offences	8	7	8	88%	86%	88%
<b>TOTAL</b>	<b>8</b>	<b>8</b>	<b>13</b>	<b>100%</b>	<b>88%</b>	<b>92%</b>

Chart 9 outlines the result of cases directed for prosecution in the Central Criminal Court and breaks down all cases by the most serious charge directed against the defendant. Supplementary charts break down the 'convictions on a lesser charge' and the 'other disposals' outcomes.

**Chart 9 OUTCOMES OF CASES PROSECUTED ON INDICTMENT IN THE CENTRAL CRIMINAL COURT**

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge			Other Disposals			For Hearing		
	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005
Murder	54	33	32	24	9	13	9	5	3	11	13	7	2	4	5	0	0	0	0	0	1	8	2	3
Attempted Murder	0	0	4	0	0	0	0	0	1	0	0	0	0	0	2	0	0	0	0	0	0	0	0	1
Soliciting to Murder	1	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Conspiracy to Murder	2	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape	64	61	60	5	12	13	18	17	20	4	1	5	8	9	9	2	0	0	0	5	3	27	17	10
Attempted Rape	2	4	2	0	1	1	1	2	1	0	0	0	0	1	0	0	0	0	0	0	0	1	0	0
Aggravated Sexual Assault	1	3	2	0	0	0	0	2	1	0	1	0	0	0	0	0	0	0	0	1	0	1	0	0
Burglary	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Assisting an Offender	4	0	0	1	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Competition Law	11	9	0	0	0	0	0	8	0	0	0	0	8	0	0	0	0	0	0	0	0	3	1	0
<b>TOTAL CASES</b>	<b>138</b>	<b>110</b>	<b>102</b>	<b>32</b>	<b>22</b>	<b>27</b>	<b>31</b>	<b>34</b>	<b>28</b>	<b>15</b>	<b>15</b>	<b>12</b>	<b>18</b>	<b>14</b>	<b>16</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>5</b>	<b>40</b>	<b>20</b>	<b>14</b>

**Chart 9a BREAKDOWN OF 'CONVICTIONS ON LESSER CHARGE'**

Primary Charge	Lesser Charge Convicted of			TOTAL			Conviction by Jury			Conviction on Plea		
	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005
Aggravated Sexual Assault	0	1	0	0	1	0	0	0	0	0	1	0
Murder	0	0	1	0	0	1	0	0	0	0	0	1
Murder	11	13	6	6	4	6	5	9	0	0	0	0
Rape	0	0	1	0	0	1	0	0	0	0	0	0
Rape	0	0	2	0	0	0	0	0	0	0	0	2
Rape	2	0	0	1	0	0	1	0	0	1	0	0
Rape	2	1	2	2	1	0	2	1	0	0	0	2
<b>TOTAL</b>	<b>15</b>	<b>15</b>	<b>12</b>	<b>9</b>	<b>5</b>	<b>7</b>	<b>6</b>	<b>10</b>	<b>5</b>			

Chart 9b **BREAKDOWN OF 'OTHER DISPOSALS'**

	2007	2006	2005
<i>Nolle Prosequi</i> Entered	0	5	4
Struck Out	0	0	1
<b>TOTAL</b>	<b>0</b>	<b>5</b>	<b>5</b>

Chart 9c **TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS  
(INCLUDING CONVICTIONS ON A LESSER CHARGE)**

	TOTAL			Conviction		
	2007	2006	2005	2007	2006	2005
Murder	46	31	28	96%	87%	82%
Attempted Murder	0	0	3	N/A	N/A	33%
Soliciting to Murder	0	0	1	N/A	N/A	100%
Conspiracy to Murder	2	0	0	100%	N/A	N/A
Rape	37	39	47	73%	77%	81%
Attempted Rape	1	4	2	N/A	75%	100%
Aggravated Sexual Assault	0	3	1	N/A	100%	100%
Burglary	0	0	1	N/A	N/A	100%
Assisting an Offender	4	0	0	100%	N/A	N/A
Competition Law	8	8	0	0%	100%	N/A
<b>TOTAL</b>	<b>98</b>	<b>85</b>	<b>83</b>	<b>80%</b>	<b>84%</b>	<b>81%</b>

Chart 10 breaks down the case verdicts for each circuit criminal court. Unlike Chart 7, it does not include cases 'for hearing' or cases where the outcome is other than conviction or acquittal. Please note that in some cases, a trial may be held in a circuit court for a county other than that in which the offence was committed.

Chart 10 **OUTCOMES OF CASES PROSECUTED ON INDICTMENT IN THE CIRCUIT CRIMINAL COURT BY COUNTY**

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge		
	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005	2007	2006	2005
Carlow	11	25	29	2	0	3	9	22	24	0	1	2	0	1	0	0	1	0
Cavan	14	24	20	0	0	1	12	18	18	0	0	0	0	4	0	2	2	1
Clare	37	39	45	3	2	12	33	33	28	1	0	0	0	3	4	0	1	1
Cork	275	257	265	10	11	8	253	225	235	1	0	0	6	10	11	5	11	11
Donegal	48	35	41	4	1	1	41	32	39	0	0	0	3	0	0	0	2	1
Dublin	1048	1322	1220	14	28	40	1012	1224	1093	15	25	35	5	21	35	2	24	17
Galway	49	79	46	1	2	0	39	67	41	4	2	0	4	6	3	1	2	2
Kerry	45	51	41	1	3	0	42	47	35	0	0	2	2	1	2	0	0	2
Kildare	63	77	72	2	4	3	58	64	63	0	3	3	2	5	1	1	1	2
Kilkenny	30	43	29	0	3	2	29	36	19	0	2	2	1	1	4	0	1	2
Laois	22	20	22	2	1	0	19	17	20	1	1	0	0	0	2	0	1	0
Leitrim	3	7	6	0	0	0	3	7	5	0	0	0	0	0	0	0	0	1
Limerick	54	82	93	2	3	6	52	77	76	0	0	1	0	1	4	0	1	6
Longford	13	10	9	1	3	1	12	5	8	0	0	0	0	1	0	0	1	0
Louth	45	41	26	1	5	3	43	32	18	0	0	0	1	2	2	0	2	3
Mayo	23	32	39	0	0	2	21	24	30	0	5	1	2	3	6	0	0	0
Meath	38	60	63	1	2	2	37	57	54	0	1	1	0	0	4	0	0	2
Monaghan	24	19	20	2	1	1	16	16	17	4	0	0	0	2	1	2	0	1
Offaly	11	8	15	1	0	0	10	7	15	0	0	0	0	1	0	0	0	0
Roscommon	13	21	14	0	0	0	12	19	14	1	0	0	0	2	0	0	0	0
Sligo	19	30	33	1	1	2	14	28	21	1	0	7	1	0	2	2	1	1
Tipperary	36	44	37	2	1	3	25	38	26	8	1	2	0	4	4	1	0	2
Waterford	58	48	45	3	4	4	53	42	36	1	1	2	0	1	2	1	0	1
Westmeath	25	42	27	0	8	5	23	30	20	0	1	1	2	3	1	0	0	0
Wexford	24	38	27	0	3	2	23	34	21	0	0	0	1	1	3	0	0	1
Wicklow	36	52	38	4	4	0	31	45	37	0	0	0	1	2	0	0	1	1
<b>TOTAL</b>	<b>2064</b>	<b>2506</b>	<b>2322</b>	<b>57</b>	<b>90</b>	<b>101</b>	<b>1922</b>	<b>2246</b>	<b>2013</b>	<b>37</b>	<b>43</b>	<b>59</b>	<b>31</b>	<b>75</b>	<b>91</b>	<b>17</b>	<b>52</b>	<b>58</b>

Chart 10a **TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS**

	TOTAL			Conviction		
	2007	2006	2005	2007	2006	2005
<b>Carlow</b>	11	25	29	100%	92%	100%
<b>Cavan</b>	14	24	20	86%	75%	95%
<b>Clare</b>	37	39	45	100%	90%	89%
<b>Cork</b>	275	257	265	96%	92%	92%
<b>Donegal</b>	48	35	41	94%	94%	98%
<b>Dublin</b>	1048	1322	1220	99%	97%	96%
<b>Galway</b>	49	79	46	90%	90%	89%
<b>Kerry</b>	45	51	41	96%	98%	90%
<b>Kildare</b>	63	77	72	95%	92%	92%
<b>Kilkenny</b>	30	43	29	97%	95%	79%
<b>Laois</b>	22	20	22	100%	95%	91%
<b>Leitrim</b>	3	7	6	100%	100%	83%
<b>Limerick</b>	54	82	93	100%	98%	89%
<b>Longford</b>	13	10	9	100%	80%	100%
<b>Louth</b>	45	41	26	98%	90%	81%
<b>Mayo</b>	23	32	39	91%	91%	85%
<b>Meath</b>	38	60	63	100%	100%	90%
<b>Monaghan</b>	24	19	20	92%	89%	90%
<b>Offaly</b>	11	8	15	100%	88%	100%
<b>Roscommon</b>	13	21	14	100%	90%	100%
<b>Sligo</b>	19	30	33	84%	97%	91%
<b>Tipperary</b>	36	44	37	97%	91%	84%
<b>Waterford</b>	58	48	45	98%	98%	93%
<b>Westmeath</b>	25	42	27	92%	93%	96%
<b>Wexford</b>	24	38	27	96%	97%	85%
<b>Wicklow</b>	36	52	38	97%	94%	97%
<b>TOTAL</b>	<b>2064</b>	<b>2506</b>	<b>2322</b>	<b>98%</b>	<b>95%</b>	<b>94%</b>

Section 2 of the Criminal Justice Act, 1993 provides that the Director of Public Prosecutions may apply to the Court of Criminal Appeal to have a sentence imposed by the trial court reviewed, if it appears that the sentence imposed was in law unduly lenient.

Chart 11 below details the number of applications made since the introduction of the Act.

In Annual Reports prior to 2004 the results of applications made were set out according to the year in which they were lodged. However not all applications lodged in the year for which the Annual Report was reporting were heard by the date of publication of the Annual Report and the results for such applications were listed as pending. It was therefore decided, from the year 2003 onwards, to set out the results of applications according to the year in which they were heard.

Chart 11a below outlines the results of applications, from the years 1994 to 2002, by the year in which the application was lodged (as appeared in previous Annual Reports).

Chart 11b outlines the results of applications, from the year 2003 onwards, by the year in which the application was heard.

**Chart 11 APPLICATIONS FOR REVIEW OF SENTENCE ON GROUNDS OF UNDUE LENIENCY**

Year of Application	Number of Applications Lodged	Year of Application	Number of Applications Lodged
1994	2	2002	23
1995	2	2003	26
1996	3	2004	21
1997	4	2005	37
1998	12	2006	41
1999	34	2007	42
2000	31	2008	58
2001	23		

**Number of Applications Lodged**

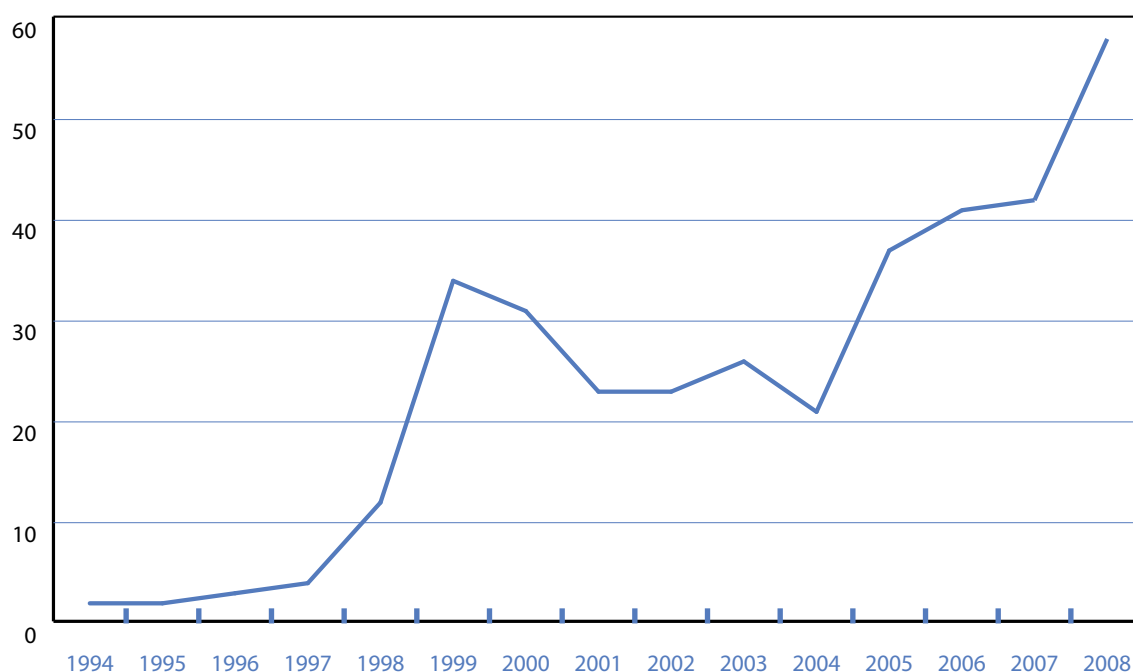


Chart 11a **RESULTS OF APPLICATIONS BY YEAR LODGED**

Year of Application Lodged	Successful	Refused	Applications Struck Out or Withdrawn	TOTAL
1994	-	1	1	<b>2</b>
1995	-	1	1	<b>2</b>
1996	1	1	1	<b>3</b>
1997	2	2	-	<b>4</b>
1998	6	3	3	<b>12</b>
1999	17	16	1	<b>34</b>
2000	15	13	3	<b>31</b>
2001	17	3	3	<b>23</b>
2002	14	9	-	<b>23</b>

Chart 11b **RESULTS OF APPLICATIONS BY YEAR HEARD**

Year of Application Heard	Successful	Refused	Applications Struck Out or Withdrawn	TOTAL
2003	11	8	1	<b>20</b>
2004	13	8	1	<b>22</b>
2005	18	9	2	<b>29</b>
2006	33	15	2	<b>50</b>
2007	30	6	3	<b>39</b>
2008	30	14	3	<b>47</b>

Taking away the assets of convicted criminals, as provided for under the provisions of the Criminal Justice Act 1994 (as amended), has proved to be an effective deterrent to the commission of further criminal offences. The Office of the Director of Public Prosecutions established a dedicated Assets Seizing Section in 2007 which co-ordinates and monitors all applications brought under the Act. The section liaises on an ongoing basis with An Garda Síochána, State Solicitors and the Office of the Revenue Commissioner to ensure best practice in the area of confiscation and forfeiture of criminal assets.

The total number of asset seizing files opened in the Office for 2008 was 132. Of those 11 concerned section 39 applications and there were 2 applications for freezing orders.

Details of Confiscation and Forfeiture Orders granted by the courts in 2008, to a total value of €1,062,796.00, are outlined in the chart below.

**Confiscation Orders:** Under the provisions of section 4 of the Criminal Justice Act 1994 (as amended) once a person has been convicted on indictment of a drug trafficking offence and sentenced, the Court of trial must determine whether the convicted person has benefited from the offence, the extent to which he has benefited and the amount that is realisable to discharge a Confiscation Order. The Court then makes a Confiscation Order for that figure.

**Forfeiture Orders:** Section 61 of the Act allows for forfeiture of any property used to commit, or to facilitate any offence, in either the District Court or Circuit Court. This Office brings applications under the section in relation to a wide variety of assets, such as cars used to transport criminals to and from crime scenes, as well as money and instruments of crime such as drug preparation equipment found at the crime scene, or near to it.

**S.39 Forfeiture Orders:** Under section 39 of the Act a Judge of the Circuit Court may order the forfeiture of any cash which has been seized under section 38 of the Act if satisfied that the cash directly or indirectly represents the proceeds of crime or is intended to be used by any person for use in drug trafficking.

[Section 38 of the Act authorises the seizure of cash where a member of An Garda Síochána or an officer of Customs and Excise has reasonable grounds for suspecting that the cash (including cash found during a search) represents any person's proceeds from criminal conduct. The cash seized by a Garda or an officer of Customs and Excise may not be detained for more than 48 hours unless the further detention of the cash is authorized by a Judge of the District Court. Applications can be made to Court to continue to detain the cash for periods of up to two years.]

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Chart 12 **CONFISCATION OF CRIMINAL ASSETS**

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Orders	Number	Amount
Forfeiture Orders	24	€279,907
Confiscation Orders	13	€279,000
Section 39 Forfeiture Orders	9	€197,015
Section 39 Forfeiture Orders (Revenue Solicitor Applications)	7	€306,874
<b>TOTAL</b>	<b>53</b>	<b>€1,062,796</b>



The European Arrest Warrant Act, 2003 came into operation on 1 January 2004. Section 2 of the Act defines the European Arrest Warrant (EAW) as a Court decision in one member state of the EU addressed to a Court in another member state of the EU for the purpose of “conducting a criminal prosecution or the execution of a custodial sentence in the issuing member state”.

Requests for the preparation of EAWs are submitted to the Office of the Director of Public Prosecutions by the extradition unit of the Garda Síochána. Applications for EAWs are normally made to a Judge of the High Court sitting in Dublin by a Solicitor from the Office and when issued by the High Court, the EAW is dispatched to the Department of Justice, Equality & Law Reform for transmission to the country where it is believed the requested person is residing. Section 33 of the European Arrest Warrant Act, 2003 permits an EAW to be issued only if the offence carries on conviction a term of imprisonment of at least 12 months or, where the requested person is a convicted person, a term of 4 months imprisonment has been imposed. The offences for which EAWs have been sought covered a wide range of serious offences including murder, sexual offences, drugs offences, thefts and serious assaults.

The chart below outlines the position since the European Arrest Warrant Act came into force. It should be noted that the issue of the EAW and the surrender of the person will not necessarily correspond to the year the file is received. The files received include 37 files where an application is pending or where either no application for an EAW was made, or the issued EAW was withdrawn because the requested person was arrested in Ireland, the requested person or complainant had died, or the DPP had so directed.

**Chart 13 EUROPEAN ARREST WARRANT**

Year	EAW Files Received from Gardaí	EAWs Issued	Persons Surrendered
2004	40	17	4
2005	36	25	13
2006	38	45	23
2007	41	35	26
2008	48	42	25
<b>TOTAL</b>	<b>203</b>	<b>164</b>	<b>91</b>

Chart 14 shows the breakdown of office expenditure for 2008, 2007 & 2006.

**Salaries & Wages:** This represents the cost of salaries of staff employed in the Office. The total staff complement at 1 January 2008 was 194.29.

**Office Expenses:** This relates to general office administration costs e.g. purchase and maintenance of office equipment, office supplies, library costs, office premises maintenance, travel and other incidental expenses.

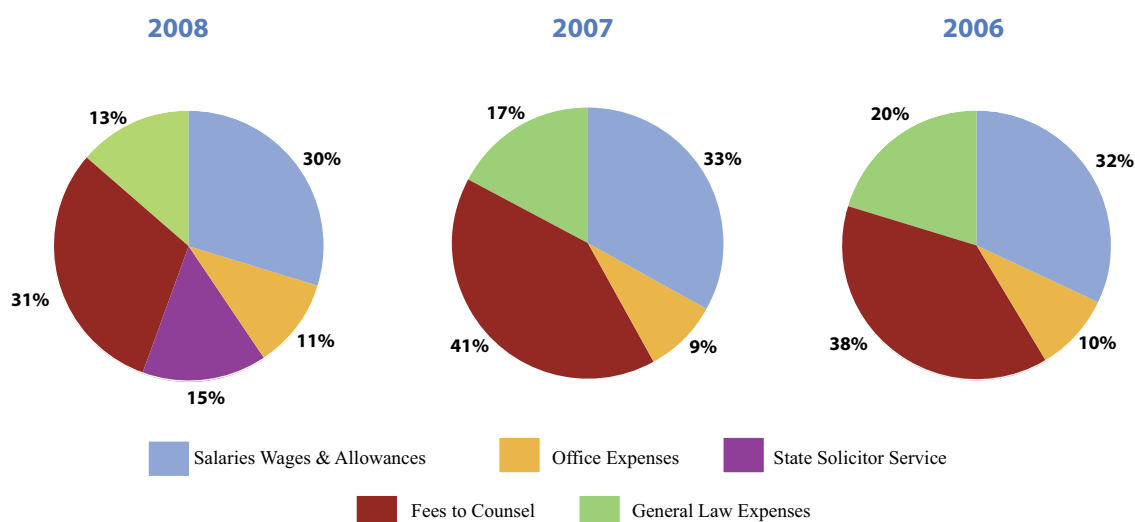
**State Solicitor Service:** The State Solicitor Service was transferred from the Office of the Attorney General to the Office of the Director of Public Prosecutions in May 2007. However, payment of salaries and expenses for the State Solicitor Service did not become the responsibility of the Office of the DPP until January 2008.

**Fees to Counsel:** These are fees paid to the barristers who prosecute cases on behalf of the Director in the various criminal courts. Fees are set within the parameters set by the Minister for Finance.

**General Law Expenses:** This refers to the payment of legal costs awarded by the courts in judicial review matters and other applications connected to legal proceedings against the Director.

Chart 14 OFFICE EXPENDITURE

	2008 €	%	2007 €	%	2006 €	%
Salaries Wages & Allowances	13,165,327	30%	11,558,163	33%	10,132,015	32%
Office Expenses	4,884,785	11%	3,122,343	9%	2,960,447	10%
State Solicitor Service	6,540,967	15%	N/A	-	N/A	-
Fees to Counsel	13,746,326	31%	14,232,484	41%	12,085,966	38%
General Law Expenses	5,908,384	13%	5,930,424	17%	6,304,827	20%
<b>TOTAL</b>	<b>44,245,789</b>		<b>34,843,414</b>		<b>31,483,255</b>	



Charts 15 & 16 show a breakdown of expenditure on fees to counsel in the various criminal courts and by region in respect of the Circuit Criminal Court.

Fees paid to counsel in the Circuit, Central & Special Criminal Courts cover advising on proofs, drafting indictments, holding consultations, arraignments, presentation of the case and other necessary appearances e.g. for sentence.

Expenditure on fees in the High Court covers mainly bail applications and the preparatory work and hearings associated with judicial reviews.

Chart 15 FEES TO COUNSEL PAID BY COURT

	2008 €	%	2007 €	%	2006 €	%
Circuit Court	7,612,381	53%	7,424,016	52%	5,969,616	50%
Central Criminal Court	3,338,387	28%	4,271,132	30%	3,388,237	28%
High Court	1,441,755	10%	1,351,359	9%	1,370,451	11%
Supreme Court	630,350	4%	364,665	3%	278,533	2%
Court of Criminal Appeal	539,944	4%	537,107	4%	845,148	7%
Special Criminal Court	132,820	1%	266,255	2%	208,341	2%
District Court	30,689	0%	17,949	0%	25,640	0%
<b>TOTAL</b>	<b>13,726,326</b>		<b>14,232,484</b>		<b>12,085,966</b>	

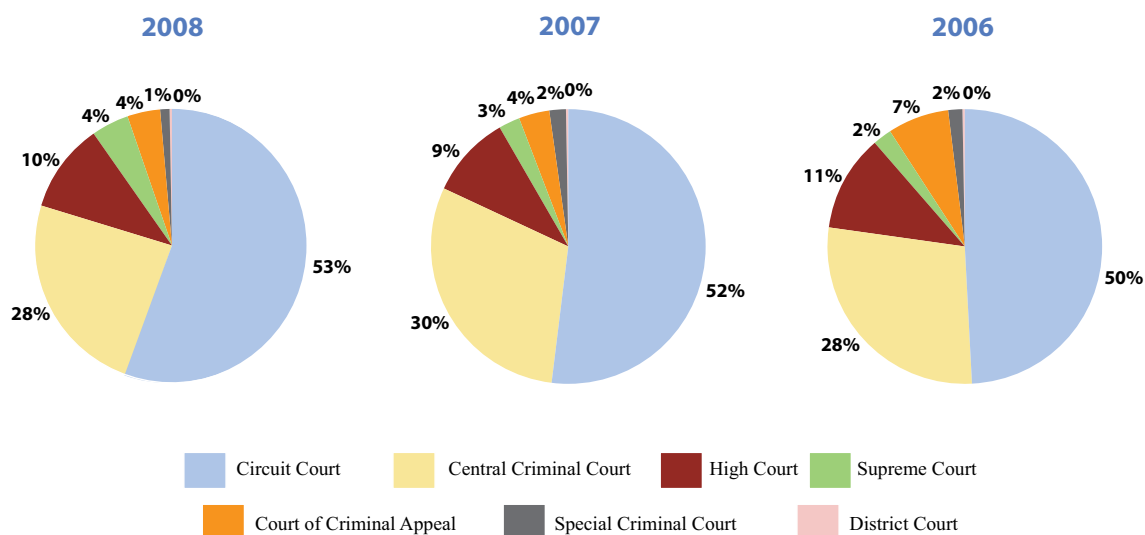
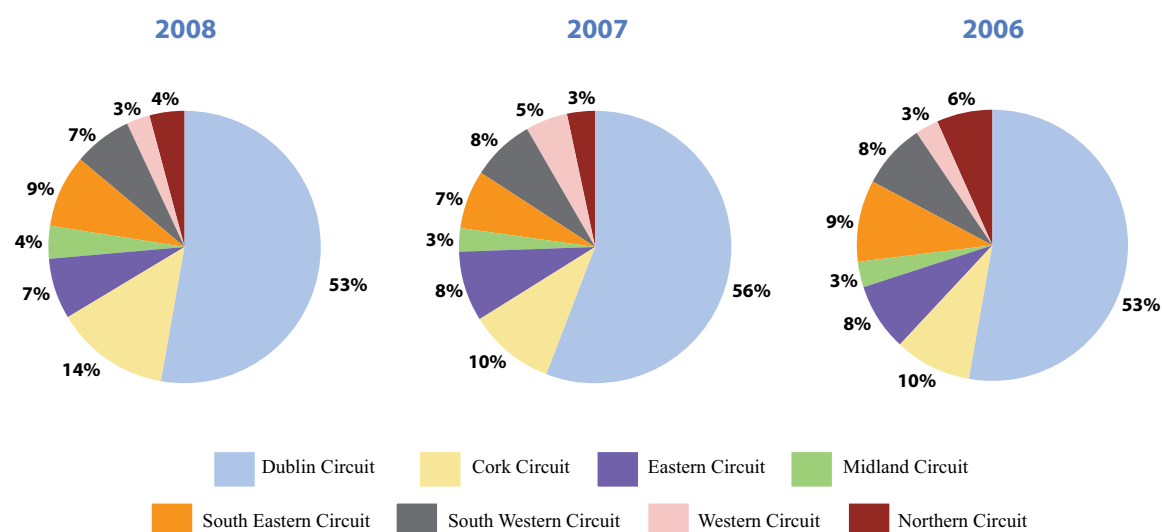


Chart 16 FEES TO COUNSEL PAID BY CIRCUIT

	2008 €	%	2007 €	%	2006 €	%
Dublin Circuit	4,026,504	53%	4,161,889	56%	3,154,658	53%
Cork Circuit	1,029,230	14%	755,769	10%	558,824	10%
Eastern Circuit	549,840	7%	612,278	8%	477,505	8%
Midland Circuit	296,429	4%	221,811	3%	186,221	3%
South Eastern Circuit	673,856	9%	504,528	7%	565,874	9%
South Western Circuit	509,819	7%	564,974	8%	476,024	8%
Western Circuit	217,764	3%	368,577	5%	166,782	3%
Northern Circuit	308,939	4%	234,190	3%	383,728	6%
<b>TOTAL</b>	<b>7,612,381</b>		<b>7,424,016</b>		<b>5,969,616</b>	



# 7 EXTRACT FROM APPROPRIATION ACCOUNT 2007

Account of the sum expended, in the year ended 31 December 2007, compared with the sum granted and of the sum which may be applied as appropriations-in-aid in addition thereto, for the salaries and expenses of the Office of the Director of Public Prosecutions.

Service		Estimate Provision €'000	Outturn €'000	Closing Accruals €'000
<b>ADMINISTRATION</b>				
<b>A.1.</b>	Salaries, Wages and Allowances	12,801	11,561	-
<b>A.2.</b>	Travel and Subsistence	216	204	26
<b>A.3.</b>	Incidental Expenses	1,635	1,143	114
<b>A.4.</b>	Postal and Telecommunications Services	310	263	17
<b>A.5.</b>	Office Machinery and Other Office Supplies	1,021	702	80
<b>A.6.</b>	Office Premises Expenses	865	431	37
<b>A.7.</b>	Value for Money & Policy Reviews	32	-	-
<b>OTHER SERVICES</b>				
<b>B.</b>	Fees to Counsel	14,580	14,232	2,492
<b>C.</b>	General Law Expenses	4,350	5,932	3,044
	<b>Gross Total</b>	<b>35,810</b>	<b>34,468</b>	<b>5,810</b>
	<i>Deduct -</i>			
<b>D.</b>	Appropriations-in-Aid	15	135	-
	<b>Net Total</b>	<b>35,795</b>	<b>34,333</b>	<b>5,810</b>

**SURPLUS TO BE SURRENDERED €1,461,586**

# 8 PROMPT PAYMENT OF ACCOUNTS ACT, 1997

## Late Payments in Commercial Transactions Regulations 2002

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### Operation of the Act in the Period 1 January 2008 to 31 December 2008

**8.1** The Office of the Director of Public Prosecutions makes payments to suppliers after the goods or services in question have been provided satisfactorily and within 30 days of the supplier submitting an invoice. In the case of fees to counsel, while invoices are not generated, the practice of the Office is to pay counsels' fees within 45 days of receipt of the state solicitor's report in each case.

**8.2** In the period in question, the Office made 5 late payments in excess of €317.50. The total value of these payments was €12,088.81. The total value of late payments in the year amounted to €12,088.81 out of total payments of €5.218 million and interest thereon came to €44.61.

generated. In cases where an interest payment is required, the matter is brought to the attention of management so that any necessary remedial action can be taken.

**8.5** The procedures which have been put in place can only provide reasonable and not absolute assurance against material non-compliance with the Act.

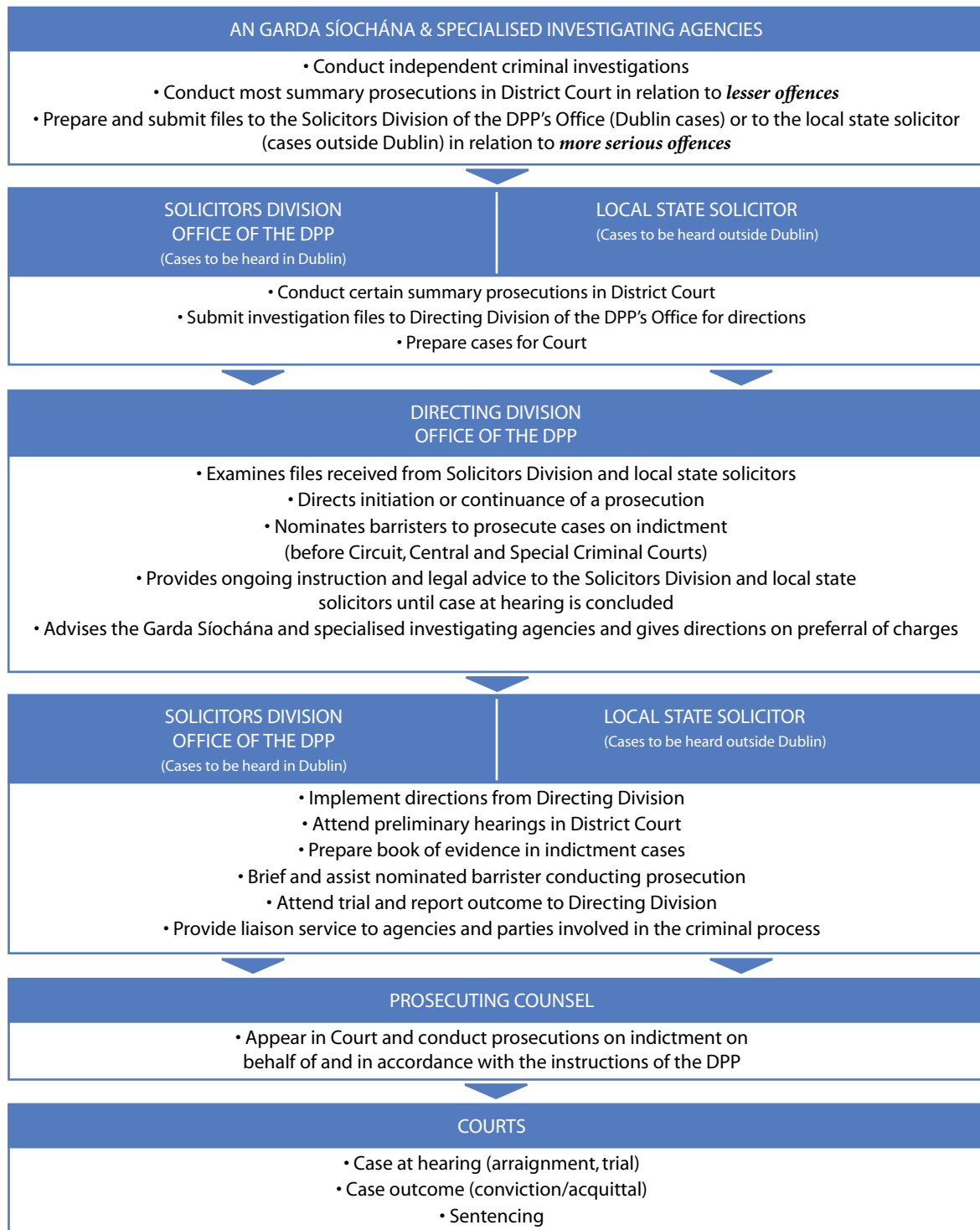
**Barry Donoghue**  
Accounting Officer  
August 2009

### Statement of the Accounting Officer

**8.3** The Office of the Director of Public Prosecutions is one of the organisations which is subject to the terms of the Prompt Payment of Accounts Act, 1997 and the Late Payments in Commercial Transactions Regulations 2002. The Act came into force on 2 January 1998, and since that time the Office has complied with the terms of the Act.

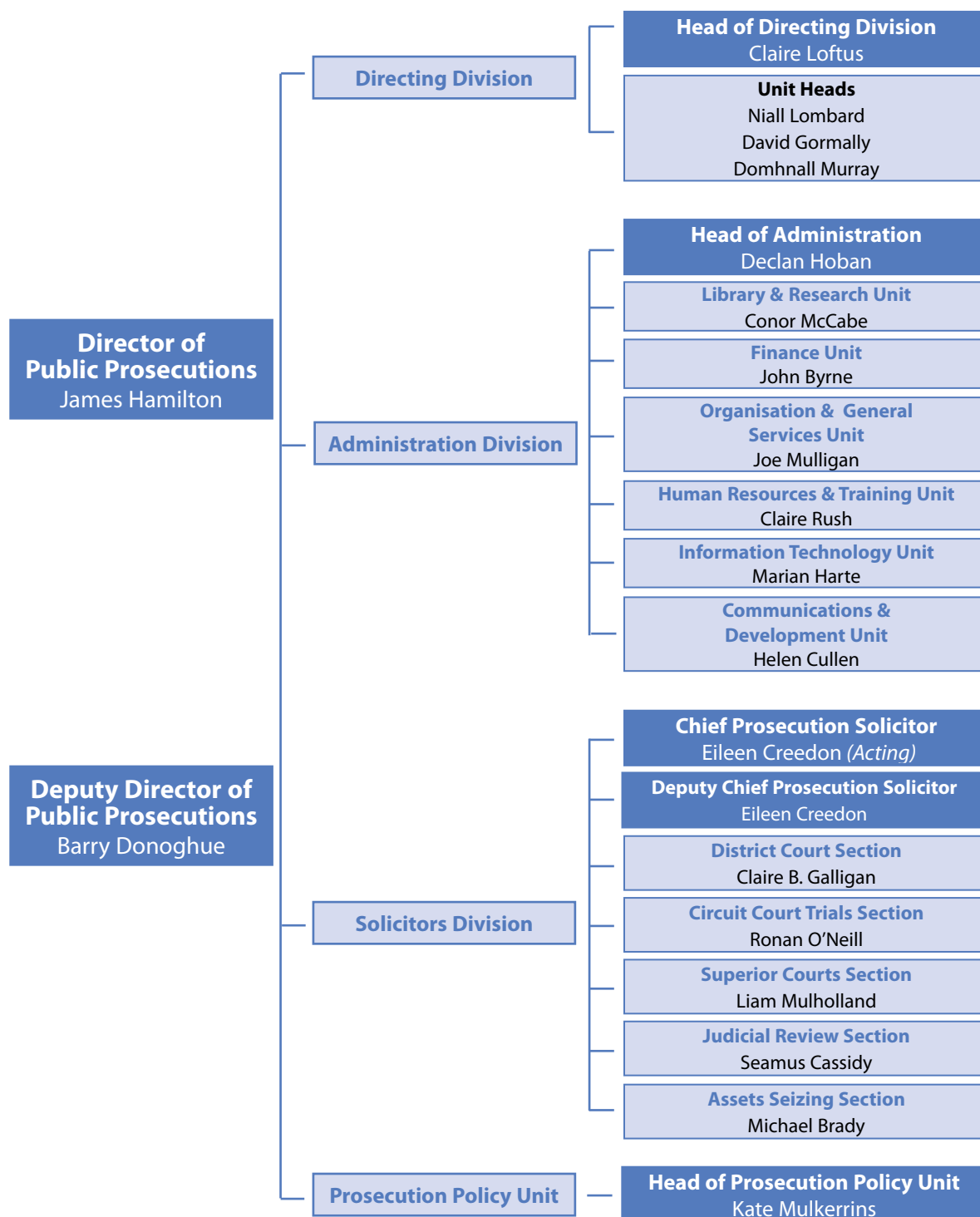
**8.4** All invoices from suppliers are date stamped on receipt. Invoices are approved and submitted for payment in a timely manner to ensure that payment is made within the relevant period. When the invoices are being paid the date of receipt and the date of payment are compared, and if the relevant time limit has been exceeded, an interest payment is automatically

# 9 OUTLINE OF THE CRIMINAL PROSECUTION PROCESS





# 10 ORGANISATION STRUCTURE (AS OF NOVEMBER 2009)



# APPENDIX I

## Policy Statement on the Giving of Reasons for Decisions not to Prosecute - 22 October 2008

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It is the intention of the Office of the Director of Public Prosecutions to pilot a policy change on the giving of reasons for decisions not to prosecute. The policy will operate on the following basis:

1. The policy change will be confined to alleged offences where a death has occurred including:
  - murder
  - manslaughter
  - infanticide
  - fatalities in the workplace
  - fatal road traffic accidents
2. Reasons for decisions not to prosecute, or to discontinue a prosecution, will be given on request to parties closely connected with the deceased, such as:
  - members of the deceased's family or household;
  - their legal or medical advisers; or
  - social workers acting on their behalf
3. Reasons will be given only in circumstances where it is possible to do so without creating an injustice. This would include situations where the giving of a reason would:
  - expose potential witnesses or other persons to injustice such as by taking their good name;
  - reveal the identity or existence of confidential sources or confidential methods or procedures of law enforcement; or
  - have an adverse effect on law enforcement.
4. The reason given should where possible be sufficiently detailed to enable the interested party to understand why the decision was taken.
5. The policy will apply to decisions not to prosecute, or to discontinue a prosecution, made in respect of offences involving a death where the alleged offence occurred on or after 22 October 2008.
6. Reasons for decisions will be communicated to interested parties in writing. It is not proposed within the scope of this pilot policy change to offer face-to-face meetings with interested parties. Persons who come within the scope of paragraph 2 above and who want to know the reason for a decision not to prosecute or to discontinue a prosecution should write to the Director of Public Prosecutions, 14-16 Upper Merrion Street, Dublin 2.
7. The Office of the DPP anticipates this policy will operate at least until 1 January 2010. A comprehensive evaluation of the policy will be undertaken during that period. Subject to a satisfactory evaluation of the operation of the policy, consideration will be given to extending the policy to other serious cases including sexual crimes.
8. It is important to note that this new policy is in addition to, and leaves unaltered, the long-standing rights of victims and their families to:
  - request the DPP to review a prosecutorial decision
  - meet with the prosecution team before a trial
  - request the DPP to seek a review of an unduly lenient sentence.

# APPENDIX II

## Annual Output Statement

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**NOTE:** The purpose of the Output Statement is to match key outputs and strategic impacts to financial and staffing inputs for a calendar year. The outputs in the statement are based on the year 2008 and they reflect all work done during 2008 on prosecution files and legal proceedings whether the files were received in 2008 or in previous years. For this reason, statistics quoted in the statement are not directly comparable to statistics quoted in Chapter 8 of this report which are compiled on the basis of the year the file was received in the Office.

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### 1. Summary Statement - High Level Goal

The fundamental function of the Office of the Director of Public Prosecutions is the direction and supervision of public prosecutions and related criminal matters. The majority of cases dealt with by the Office are received from the Garda Síochána, the primary national investigating agency. However, some cases are also referred to the Office by specialised investigative agencies including the Revenue Commissioners, Government departments, the Health & Safety Authority, An Post, the Competition Authority, the Director of Corporate Enforcement, the Environmental Protection Agency and local authorities.

#### High Level Goal

To provide on behalf of the People of Ireland a prosecution service that is independent, fair and effective.

#### Impact Indicator

The extent to which an independent, effective and fair prosecution service is maintained.

#### Programme Objectives

The consideration of criminal investigation files submitted to the Office and the timely taking of decisions regarding whether or not a prosecution should be initiated or whether a prosecution already initiated by the Garda Síochána should be maintained.

To ensure that decisions to prosecute are acted upon in a timely manner and in accordance with the published Guidelines for Prosecutors.

### 2. Total Budget by Source of Funding by Year

The Office is funded by a Vote of the Oireachtas. This Vote provides for the salaries and expenses of the Director and his staff, the salaries and expenses of the State Solicitor Service, fees payable to counsel engaged by the Director to prosecute cases in the various courts and the payment of costs awarded against the State arising out of Judicial Review and other legal proceedings. Expenditure on the last two items is demand led and depends on the volume of criminal work processed through the courts in any given year. The figure for Appropriations in Aid relates principally to the recovery of costs awarded to the State in criminal proceedings. As this varies widely from year to year, a nominal figure is shown.

	BUDGET 2008 € Million	Provisional Outturn 2008 € million	BUDGET 2009 € Million	% Change on Outturn
<b>Voted Expenditure</b>	44.55	44.36	43.58	-2%
<b>Non-Voted (State source)</b>	-	-	-	-
<b>Total Gross Expenditure</b>	44.55	44.36	43.58	-2%
<b>Appropriations in Aid</b>	0.02	0.11	0.02	-
<b>Net Expenditure</b>	44.53	44.25	43.56	-2%

### 3. Programme Details

The Office of the Director of Public Prosecutions pursues a single programme, the provision on behalf of the People of Ireland of a prosecution service that is independent, fair and effective.

## INPUTS

BREAKDOWN OF TOTAL GROSS EXPENDITURE BY STRATEGIC OBJECTIVE					
		2008		2009	% Change 2009 over 2008
		Budget € million	Outturn € million	Budget € million	
<b>Administration Expenditure</b>	Pay	2.88	2.39	2.87	20%
	Non-Pay	4.29	4.99	3.28	-34%
<b>Programme Expenditure</b>	Pay	11.53	10.78	11.31	5%
	Non-Pay	25.85	26.19	26.12	0%
<b>Total Gross Expenditure</b>		44.55	44.35	43.58	-2%
<b>Appropriations-in-Aid</b>		-0.02	-0.11	-0.02	-82%
<b>Net Expenditure</b>		<b>44.53</b>	<b>44.24</b>	<b>43.56</b>	<b>-2%</b>
		<b>2008</b>			
<b>Number of Staff employed at end of 2008 (whole time equivalent)</b>		<b>196.6</b>			

## OUTPUTS

2008 Output Target	2008 Outturn	2009 Output Target
Directions issued in relation to approximately 10,000 suspects on files submitted by investigation agencies.	Directions issued in relation to 11,300 suspects on files submitted by investigation agencies.	Directions issued in relation to approximately 11,000 suspects on files submitted by investigation agencies.
Prosecutorial decisions taken within target timescales: 40% of cases within 2 weeks 50% of cases within 4 weeks 75% of cases within 3 months	54% of cases within 2 weeks 67% of cases within 4 weeks 84% of cases within 3 months	Prosecutorial decisions taken within target timescales: 40% of cases within 2 weeks 50% of cases within 4 weeks 75% of cases within 3 months

2008 Output Target	2008 Outturn	2009 Output Target
Acting through the State Solicitor Service, deal with approximately 1,500 new indictable cases and also ongoing indictable cases from previous years which have not yet been concluded.	1,796 new indictable cases dealt with as well as ongoing indictable cases from previous years	Acting through the State Solicitor Service, deal with court proceedings on indictment arising out of directions to prosecute in 2009 against approximately 1,800 suspects, together with ongoing prosecutions directed in previous years.
Directly deal with approximately 2,500 Dublin District Courts prosecution files.	2,376 files received and dealt with.	Directly deal with approximately 2,300 Dublin District Courts prosecution files.
Handle approximately 2,000 District Court appeals, including appeals in cases prosecuted by the Garda Síochána under delegated authority.	2,877 files received and dealt with.	Handle approximately 2,500 District Court appeals, including appeals in cases prosecuted by the Garda Síochána under delegated authority.
Directly deal with approximately 1,800 new indictable cases and also ongoing indictable cases from previous years which have not yet been concluded.	1,795 new indictable cases dealt with as well as ongoing indictable cases from previous years.	Deal with court proceedings on indictment arising out of directions to prosecute in 2009 against approximately 1,800 suspects, together with ongoing prosecutions directed in previous years.
Deal with approximately 1,700 High Court Bail Applications and approximately 350 Judicial Review cases.	2,582 Bail applications and 337 Judicial Review cases received and dealt with.	Deal with approximately 2,200 High Court Bail Applications and approximately 350 Judicial Review cases.

# APPENDIX III

## Victims' Charter

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### Role of the Office of the Director of Public Prosecutions (DPP)

When you report a serious crime, the Gardaí (or other agencies) investigate it and send a file to the Office of the DPP. We then examine this file to see whether there is enough evidence to prosecute someone for the crime and what the charge should be.

### Deciding whether to prosecute

The decision to prosecute is a serious one – it can have a lasting effect on both the victim of the crime and the accused. Only the DPP or one of our lawyers may decide whether to prosecute in serious cases, for example murder, sexual assault or fatal road accidents.

The Gardaí may decide to prosecute less serious crimes. However the prosecution is still taken in the name of the DPP and the DPP has the right to tell the Gardaí how to deal with the case.

We act independently when deciding whether to prosecute. This means that no other person, not even the Government, can tell us to prosecute or not to prosecute any case.

### No prosecution

If we decide not to prosecute, we will give reasons only to the Gardaí who investigated the case. However, in cases where a death occurred on or after 22 October 2008 we will give reasons to the families of victims if they ask us. We will give you a reason only if we can do so without creating an injustice to someone else.

### Prosecuting offences in court

The Gardaí will tell you whether we have decided to prosecute and, if so, when and where the court case will take place. If a case is prosecuted in Dublin, we are represented in court by the Gardaí or by a solicitor

from our Office. If it takes place outside Dublin, we are represented by the Gardaí or the local state solicitor.

The most serious cases are heard in the Central Criminal Court, the Circuit Criminal Court or the Special Criminal Court. In these cases the prosecution solicitor or local state solicitor will:

- prepare court documents, such as books of evidence (statements and other information about the crime); and
- instruct and assist prosecution barristers.

### What you can expect from the Director of Public Prosecutions

#### If you are a victim

- We will consider any views you express before we decide whether to prosecute.
- If you ask us to review one of our decisions, we will examine it and, if possible, carry out a review. The review will be carried out by a different lawyer to the one who made the original decision.
- If we decide not to prosecute in a case where a death has occurred on or after 22 October 2008 we will, at your request, give you a reason for our decision whenever possible.

#### If you are a witness

- We will treat you with respect and take account of your personal situation, rights and dignity.
- We will work with the Gardaí to make sure you are kept up-to-date on your case, especially if it is about a violent or sexual offence.

- We will arrange for you to talk to the prosecution solicitor and barrister before the court case begins, if you wish. They will explain what will happen in court, but they are not allowed to talk to you about the evidence you will give.

#### Sentencing

- If we think a sentence is unduly lenient, in other words too light without a good reason, we can ask the Court of Criminal Appeal to review it. We can seek a review of sentences from the Central Criminal, Circuit Criminal and Special Criminal Courts but not from the District Court.

#### If we do not meet your expectations

If you have questions or complaints about the Office, you may contact:

Director of Public Prosecutions  
14-16 Upper Merrion Street  
Dublin 2

Tel: + 353 (0)1 678 9222

Fax: + 353 (0)1 661 0915

Website: [www.dppireland.ie](http://www.dppireland.ie)

On the website you can find our information booklets

**The Role of the DPP** and **Attending Court as a Witness**. The Victims and Witnesses section of our website also has a lot of information that may assist you.





